



**REQUEST FOR QUALIFICATIONS
RFQ # 2022-001**

General Counsel Services

Date of Issuance: April 18, 2022

SUBMITTALS DUE:

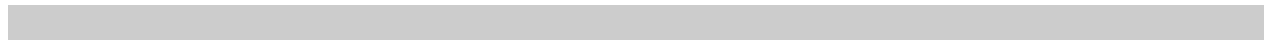
**5 P.M. (PST)
Monday, May 16, 2022**

**CONTACT: BARBARA BOSWELL
CHIEF EXECUTIVE OFFICER
CEO@TheCleanEnergyAlliance.org**

***THE CLEAN ENERGY ALLIANCE ENCOURAGES THE PARTICIPATION OF MINORITY- AND WOMEN-OWNED
BUSINESSES***

TABLE OF CONTENTS

	<u>PAGE</u>
I. INTRODUCTION & BACKGROUND	3
II. SCOPE OF REQUIRED SERVICES & TERM	3
III. QUESTIONS	3
IV. SUBMITTAL REQUIREMENTS	4
V. SELECTION	8
VI. CONDITIONS GOVERNING THIS PROCUREMENT	8
SCHEDULE	8
GENERAL COVENANTS	8
VII. FEE PROPOSAL	10
VIII. SUBMITTAL & REVIEW	10
IX. EQUAL OPPORTUNITY	10
ATTACHMENT A – SCOPE OF REQUIRED SERVICES	11
ATTACHMENT B – CLEAN ENERGY ALLIANCE BID EVALUATION CRITERIA	12
ATTACHMENT C – CLEAN ENERGY ALLIANCE STANDARD CONSULTANT AGREEMENT	14



I. INTRODUCTION & BACKGROUND

The Clean Energy Alliance (CEA) is seeking responses to this Request for Qualifications (RFQ) from qualified firms to provide General Counsel services.

About CEA

In October 2019, the cities of Carlsbad, Del Mar and Solana Beach formed CEA, a joint powers authority, that operates a Community Choice Energy (CCE) program. CEA's primary purpose is to assist its member agencies in meeting its Climate Action Plan goals as an energy services provider, delivering cleaner and more locally produced electricity to its service territory. CEA began serving customers in Carlsbad, Del Mar and Solana Beach in May 2021 and has recently expanded to include the cities of Escondido and San Marcos. CEA is anticipating serving customers in the new territory in April 2023. Other cities are considering joining CEA.

CEA currently does not have any in-house staff, contracting for all service needs. CEA anticipates transitioning to a combination of in-house staff and consulting services over the next several fiscal years.

CEA Board meetings are held once per month, with special meeting occasionally scheduled, and Community Advisory Committee meetings are held every other month. Meetings are currently held via videoconference and will transition to in-person when requirements dictate at one of the member agency locations.

II. SCOPE OF REQUIRED SERVICES & TERM

Scope of required services are listed in Attachment A – Scope of Required Services, of this RFQ.

The term of the contract will be for a period of three (3) years with the option of two (2) one-year extensions.

III. QUESTIONS

Questions are to be submitted to Barbara Boswell, Chief Executive Officer, via email to: CEO@TheCleanEnergyAlliance.org, by 5:00pm, May 2, 2022. Responses will be posted to CEA's Solicitation website at www.thecleanenergyalliance.org/solicitations by 5:00pm, May 6, 2022.

All addenda will be posted to CEA's website, and it is recommended that all potential proposers check the website frequently, and prior to submittal, for any updates to the RFQ.

Unless otherwise authorized herein, proposers who are considering submitting a proposal response to this RFQ, or who submit a proposal in response to this RFQ, are prohibited from communicating with CEA staff about this RFQ from the date this RFQ is issued until a contract is awarded.

IV. SUBMITTAL REQUIREMENTS

Submittals should be concise, well-organized and demonstrate the qualifications, experience and approach necessary to provide the required scope of services. Submittals shall include the following items in the order listed:

Statement of Qualifications – Submit a Statement of Qualifications that responds to the following minimum qualifications:

- All attorneys who will provide service to CEA must be members in good standing of the State Bar of California.
 - Provide the Bar numbers and licensing state for all personnel proposed.
- All attorneys who will provide service to CEA must have at least 5 years public agency, public contracting and labor and employment counsel experience.
 - Identify the public agencies that your firm currently represents or has represented as general or special counsel. List the tasks the firm has provided for the public agency. List the time period your firm represented the public agencies.
 - Identify the public agencies that your firm currently represents or has represented for public contracting, the types of documents your firm has prepared and list any public contracts litigation your firm has been involved with, the nature of the claims litigated and the results of that litigation if it has been completed.
 - Identify the public agencies that your firm has represented as specialty labor and employment counsel, the tasks you have provided the client including without limitation the trainings you have provided to employees. List any litigation that your firm has handled and the outcome of the litigation, if completed.
- Describe your firm's experience, and experience of proposed primary attorney to be assigned, providing service to operational Community Choice Aggregation (CCA) agencies, including name of CCA, number of years engaged and scope of services provided.
- Describe your firm's practice areas, number of attorneys in the firm, number of attorneys who practice in the area for which the proposer is responding, the locations in which your firm has offices.
- Identify the proposed primary attorney to be assigned and any attorney who will be assigned to assist and the role the attorneys will be assigned.
- Attach resumes for the proposed attorneys to be assigned.

Experience & References – Provide summaries of up to three engagements that are similar in scope to the type of services required by CEA. The summaries should include client name, contact information, scope of service, team members, date completed and total (or annual) cost of services.

Fee schedule – Please address each of the following questions:

1. Is the firm willing to agree to a flat fee arrangement? If so, please provide a list of what the flat fee would be for a particular scope of required services.
2. The standard hourly rate of each attorney and assistant who would be assigned to the

engagement for scope of required services to be billed hourly.

3. A list of reimbursable expenses and the rate charged for each. (CEA will only pay actual costs for postage, telephone, travel and photocopies).
4. Any other fees or charges.

List of Other Proposed Services – Please describe any additional services your firm could provide to CEA not listed in the Scope of Required Services.

Conflict of Interest – Please identify any actual or potential conflicts of interest your firm might have in providing services to CEA. If applicable, please include a copy of your firm’s conflict of interest policy.

Litigation or Administrative Proceedings –

1. Please state whether or not there is any pending litigation involving the firm or attorney in the firm arising from legal services provided by the attorney or firm. If the answer is yes, please describe the nature and the status of the litigation.
2. Are there any pending criminal or administrative actions (including disciplinary matters) involving the firm or any attorneys in the firm which arise from legal services provided by any of the attorneys proposed to work for CEA? If yes, please describe the nature of such actions and the status. Please limit the response to this question to (a) malpractice claims and (b) other actions which if an adverse result were to occur would negatively impact the ability of the attorney/firm to render legal services to CEA.
3. For the types of actions described above in questions 1 and 2, please state whether any such actions have been brought or filed since January 1, 2012, which have been resolved and explain resolution.

Debarments of Suspensions – Please indicate whether your firm, or any individual attorneys who are principals, partners or employees of your firm, have been debarred or suspended by any public entity from obtaining or performing a contract, including the surrounding circumstances.

Exceptions to CEA Standard Consultant Agreement - Please note any exceptions to the CEA Standard Consultant Agreement attached as Attachment C to the RFQ.

Appendices – Please include the following attachments and appendices to the Statement of Qualifications:

Appendices:

Description of Firm and Firm History
Resume of Each Attorney to be Assigned

Appendix A Assigned Attorneys
Appendix B Contact Information: Assigned Attorneys

Appendix A
Assigned Attorneys
Please include all attorneys proposed be assigned.

Firm Name: _____

NAME	TITLE	ROLE	SPECIFIC EXPERTISE	HOW LONG IN FIRM	HOW LONG IN CURRENT POSITION	CA BAR NUMBER	OTHER STATES LICENSED TO PRACTICE

Appendix B
Contact Information: Assigned Attorneys

Firm Name: _____

Name:

Role:

Email Address:

Telephone Number:

V. SELECTION

Submittals will be reviewed and ranked by a selection committee composed of the CEO and Board Members appointed by the CEA Board of Directors. During the evaluation process, the selection committee and CEA reserve the right to request additional information or clarification from firms responding to this RFQ. All submittals deemed responsive will be evaluated using CEA's Bid Evaluation Criteria Policy (Attachment B).

Selection will be made by the CEA Board of Directors based upon the firm's current ability to provide the highest quality of service that meets the requirements and objectives of this RFQ, the needs of CEA, and provide the best value to CEA.

Upon ranking of the submittals based on a review of the selection criteria, the selection committee will present a recommendation to the CEA Board of Directors. Upon selection by the Board, staff will begin negotiations with the selected firm as to the final scope of work and price. If staff is unable to reach an acceptable agreement with the selected firm, staff will terminate negotiations, and initiate negotiations with the next highest-ranked firm.

This RFQ does not commit CEA to award a contract for any costs incurred in the preparation of the submittal. CEA reserves the right to accept or reject any or all submittals, or any part of a submittal received as a result of this request, to waive minor defects or technicalities, to award multiple contracts, or to solicit new submittals for the same scope of work or a modified scope of work, or to extend, expand, or cancel in part, or its entirety, this RFQ if it is in the best interest of CEA to do so. CEA will not reimburse any of the proposers for their costs to prepare and submit a proposal.

VI. CONDITIONS GOVERNING THIS PROCUREMENT

SCHEDULE

This section of the RFQ provides the anticipated schedule for the solicitation and describes the events and the conditions governing the procurement. CEA will make every effort to adhere to the anticipated schedule below:

Issue RFQ	April 18, 2022
Deadline for written questions to be submitted (email)...	May 2, 2022 5:00 pm PDT
Responses to written questions (posted to website).....	May 6, 2022 5:00 pm PDT
Deadline to Submit Proposal	May 16, 2022 5:00 pm PDT
Evaluate Proposals & Oral interviews	May 16 – June 3, 2022
Results to Board for Selection	June 30, 2022

General Covenants

Rights of CEA

This RFQ does not commit CEA to award, nor does it commit CEA to pay any cost incurred in the submission of the proposal, or in making necessary studies or designs for the preparation thereof, nor procure or contract for services or supplies. Further, no reimbursable cost may be incurred in anticipation of a contract award.

CEA reserves the right to reject any and all proposals, to waive any minor irregularities in a proposal, to request clarifications or additional information from an institution, and to reject any agreement deemed by CEA to be in its best interest with one or more institutions.

Claims against CEA

Neither your organization nor any of your representatives shall have any claims whatsoever against CEA, or any of its respective officials, agents, or employees arising out of or relating to this RFQ or these RFQ procedures, except as set forth in the terms of a definitive agreement between CEA and your organization.

Form of Proposals

Electronic proposals only will be accepted.

Amended Proposal

Proposers may submit amended proposals before the Deadline to Submit Proposals. Such amended proposals must be complete replacements for previously submitted proposals and must be clearly identified in a written format. CEA will not merge, collate, or assemble proposal materials.

Withdrawal of Proposal

Proposers may withdraw their proposals at any time prior to the Deadline to Submit Proposals. The proposer must submit a written withdrawal request signed by the proposer's duly authorized representative addressed to and submitted to the Contact.

Late Responses

To be considered, proposals must be received via email by May 16, 2022, 5:00 PM PDT.

No Public Proposal Opening

There will be no public opening for this RFQ.

Public Records Act (CPRA)

Please note that any information provided as part of a submittal in response to the RFQ may be subject to the Public Records Act (PRA). If the Proposer feels that any part of its submission is proprietary information, please identify by section, paragraph, and page the information the Proposer believes is proprietary. In the event of a PRA, this information may be reviewed by CEA's attorneys for applicability. No guarantee can be provided that any part of the Proposer's information will be kept confidential.

Confidentiality

All data and information obtained from or on behalf of CEA by the Proposer and its agents in this RFQ process, including reports, recommendations, specifications, and data, shall be treated by the Proposer and its agents as confidential. The Proposer and its agents shall not disclose or communicate this information to a third party or use it in advertising, publicity, propaganda, or in another job or jobs, unless written consent is obtained from CEA. Generally, each proposal and all documentation, including financial

information, submitted by a Proposer to CEA is confidential until a contract is awarded, when such documents become public record under State and local law, unless exempted under PRA.

VII. FEE PROPOSAL

Firms shall provide a schedule of hourly rates of personnel used in this agreement. The fee proposal must be received by 5:00 PM on May 16, 2022.

VIII. SUBMITTAL & REVIEW

Firms must submit required materials no later than 5:00 PM on May 16, 2022, via email to CEO@TheCleanEnergyAlliance.org. Please title the email in the subject field as "RFQ 2022-001 General Counsel Services". Submittals received after the specified time will not be considered and will be returned to the responding firm.

For additional information, please contact Barbara Boswell, Chief Executive Officer, Clean Energy Alliance by email at CEO@TheCleanEnergyAlliance.org.

IX. EQUAL OPPORTUNITY

CEA requires all proposers to comply with equal opportunity policies. CEA's contracts are open to all persons without regard to race, religion, color, national origin, sex, age, marital status, handicap, or political affiliation.

Thank you for your interest, and we look forward to reviewing your submittal.

ATTACHMENT A

RFQ 2022-001 GENERAL COUNSEL SERVICES

SCOPE OF REQUIRED SERVICES

The successful agency will be expected to be knowledgeable about the laws that public agencies must comply with, requirements that public agencies must comply with to secure supplies, other goods and services, labor and employment requirements and to assist CEA Board, Community Advisory Committee and its staff with the following:

1. Advise on questions related to the Brown Act, the Public Records Act, and other conflict of interest requirements;
2. Draft ordinances, resolutions and policies;
3. Provide updates to the Board and staff about changes in law, significant cases and Attorney General opinions;
4. Provide staff training on public law issues, requirements and mandated trainings;
5. Attend public meetings as counsel to the Board of Directors or the Community Advisory Committee;
6. Attend meetings and participate in telephone conference calls with CEA staff as necessary;
7. Advise on Public Records Requests and assist with responses when appropriate;
8. Review requests for bids (non-energy related) to ensure compliance with legal requirements;
9. Advise CEA about when and whether a public bidding process is required or when CEA is required to accept the lowest responsible bid in various situations;
10. Advise or represent CEA in bid challenges;
11. Assist CEA in drafting appropriate policies for procurement of goods and services;
12. Provide necessary employee trainings including sexual harassment training;
13. Review, advise about or update employment policies;
14. Represent CEA in any employment matters before any regulatory agency or any courts;
15. Draft employment agreements, separation agreements, noncompete agreements or any similar documents;
16. Advise and prepare necessary documents related to expansion of CEA and the addition of new member agencies.

Clean Energy Alliance

JOINT POWERS AUTHORITY

BID EVALUATION CRITERIA POLICY

Clean Energy Alliance (CEA) desires to establish a Bid Evaluation Criteria Policy (Policy) that establishes a process for comparing bids to select the best offer to achieve the goals of CEA as identified in the Joint Powers Authority Agreement and adopted policies.

CEA has identified the following evaluation criteria categories, for non-energy goods or services in excess of \$100,000 requiring a formal bid, power purchase agreements with third parties and to the extent permitted by law, CEA owned generation projects:

\$ Value
 Innovation
 Development Risk
 Project Location
 Environmental Stewardship
 Social Equity
 Local Job Growth
 Workforce Development

Projects will be ranked high, medium, low or neutral based as determined by applying the following criteria:

\$ Value: Projects will be ranked based on the \$ value as compared to other bids received and estimated costs in CEA financial pro forma

Innovation

- **High:** Project contains a novel, innovative, or otherwise meritorious concept, application, approach or method
- **Neutral:** Project does not contain a novel, innovative, or otherwise meritorious concept, application, approach or method

Development Risk: Projects will be ranked from high (good) to low (bad) based on:

- Site Control
- Interconnection status
- Environmental impacts
- Land use and permits

- Project financing
- Developer experience

Project Location

- **High:** In San Diego County and any additional area served by CEA
- **Medium:** Other areas within California
- **Low:** Out of state projects

Environmental Stewardship

- **High:** Demonstrates environmental benefits beyond the climate and GHG reduction benefits of renewable energy
- **Low:** Project does not demonstrate environmental stewardship as defined above

Social Equity

- **High:** Demonstrates societal, health, or economic benefits that address social equity
- **Low:** Project does not demonstrate social equity benefits as defined above

Local Job Growth

- **High:** Creates new jobs that employ workers and uses businesses in San Diego County and any additional areas served by CEA
- **Medium:** Employs existing workers and uses businesses in San Diego County and any additional areas served by CEA
- **Low:** Employs workers and uses businesses outside San Diego County and any additional areas served by CEA

Workforce Development

- **High:** Employ workers from San Diego County and any additional areas served by CEA; utilize California approved apprenticeship programs; follows fair compensation practices including proper assignment of work to crafts that traditionally perform the work
- **Low:** Does not demonstrate workforce development as defined above

The evaluation criteria will be included in formal bid documents and requests for proposals, as appropriate.

AGREEMENT BETWEEN THE CLEAN ENERGY ALLIANCE AND

[Click to enter the consultant's name.](#)**FOR**
[Click to enter subject matter of the services.](#) **SERVICES**

THIS AGREEMENT, is entered into this [Click here to enter DAY.](#) of [ENTER MONTH.](#), [ENTER YEAR.](#), by and between CLEAN ENERGY ALLIANCE, an independent joint powers authority ("Authority"), and [Click here to enter Consultant's name.](#), a California _____ ("Consultant") (collectively referred to as the "Parties").

RECITALS:

A. Authority is an independent public agency duly organized under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") with the power to conduct its business and enter into agreements.

B. Consultant possesses the skill, experience, ability, background, and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein.

C. Authority and Consultant desire to enter into this Agreement for Interim Chief Executive Officer services.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on [Click here to enter beginning of term.](#), and shall terminate on [Click here to enter end of term.](#), unless terminated earlier pursuant to Section 19 hereof or extended upon the written mutual agreement of the 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 [Click here to enter amount of compensation in words.](#) dollars based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

Consultant and Authority agree that time is of the essence regarding the performance of this Agreement.

5. **STANDARD OF CARE**

Consultant agrees to perform all services required by this Agreement in a manner commensurate with the prevailing standards for a _____ consultant in California and agrees that all services shall be performed by qualified and experienced personnel.

6. **INDEPENDENT PARTIES**

Authority and Consultant intend that the relationship between them created by this Agreement is that of an independent contractor. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by Authority to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from Authority to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, 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 AUTHORITY.**

Authority is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated November 4, 2019, and is a public entity separate from its constituent members. Authority shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Contractor shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Authority's constituent members in connection with this Agreement.

8. **NON-DISCRIMINATION**

Consultant agrees that it shall not harass or discriminate against a job applicant, an Authority employee, or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, sexual orientation, or any other protected class. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS AND INDEMNIFICATION**

Consultant shall, to the fullest extent allowed by law indemnify, defend, and hold harmless the Authority and its members, officers, officials, agents, employees and volunteers from and against any and all liabilities, claims, actions, causes of action, demands, damages and losses whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, whether physical, emotional, consequential or otherwise, arising out of or related to the negligence or willful misconduct of Consultant or Consultant's employees, officers, officials, agents or independent contractors in the performance of this Agreement, except where caused by the sole or active negligence or willful misconduct of Authority or its members, officers, officials, agents, employees and volunteers. Such costs and expenses shall include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation. The acceptance of the services provided by this Agreement by Authority shall not operate as a waiver of the right of indemnification. The provisions of this Section survive the completion of the services or termination of this Agreement.

10. **INSURANCE:**

A. General Requirements. On or before the commencement of the term of this Agreement, Consultant shall furnish Authority with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the requirements listed in Exhibit "D," which is attached hereto and incorporated herein by this reference. Such insurance and certificates, which do not limit Consultant's indemnification obligations under this Agreement, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the Authority by certified mail, Attention: General Counsel." Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to Authority and licensed to do insurance business in the State of California. Endorsements naming the Authority as additional insured shall be submitted with the insurance certificates.

B. Subrogation Waiver. Consultant agrees that in the event of loss due to any of the perils for which it has agreed to provide comprehensive general and automotive liability insurance, Consultant shall look solely to its insurance for recovery. Consultant hereby grants to Authority, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Consultant or Authority with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of Consultant may acquire against Authority by virtue of the payment of any loss under such insurance.

C. Failure to secure or maintain insurance. If Consultant at any time during the term hereof should fail to secure or maintain the foregoing insurance, Authority shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. Additional Insured. Authority, its members, officers, employees and volunteers shall be named as additional insureds under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. Sufficiency of Insurance. The insurance limits required by Authority are not represented as being sufficient to protect Consultant. Consultant is advised to confer with Consultant's insurance broker to determine adequate coverage for Consultant.

F. Maximum Coverage and Limits. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the additional insureds. Furthermore, the requirements for coverage and limits shall be the minimum coverage and limits specified in this Agreement, or the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

11. **CONFLICT OF INTEREST**

Consultant warrants that it presently has 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 will not employ any person having such an interest. Consultant agrees to advise Authority immediately if any conflict arises and understands that it will be required to fill out a conflict of interest form under Authority's Conflict of Interest Code.

12. **PROHIBITION AGAINST TRANSFERS**

Consultant shall not assign, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of Authority. Any attempt to do so without such consent shall be null and void, and any assignee, pledgee, or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by Consultant from Authority under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to Authority by Consultant.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Consultant is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Consultant, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation or partnership.

13. **SUBCONTRACTOR APPROVAL**

Unless prior written consent from Authority is obtained, only those persons and subcontractors whose names are attached to this Agreement shall be used in the performance of this Agreement.

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in substantial conformity to the insurance carried by Consultant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

Consultant agrees to include within their subcontract(s) with any and all subcontractors the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by Consultant shall agree to be bound to Consultant and Authority in the same manner and to the same extent as Consultant is bound to Authority under this Agreement. Subcontractors shall agree to include these same provisions within any sub-subcontract. Consultant shall provide a copy of the Indemnity and Insurance provisions of this Agreement to any subcontractor. Consultant shall require all subcontractors to provide valid certificates of insurance and the required endorsements prior to commencement of any work and will provide proof of compliance to Authority.

14. **REPORTS**

A. Each and every report, draft, work product, map, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by Consultant pursuant to or in connection with this Agreement, shall be the exclusive property of

Authority. Consultant shall not copyright any Report prepared as part of the services required by this Agreement. Any Report, information and data acquired or required by this Agreement shall become the property of Authority, and all publication rights are reserved to Authority. Consultant may retain a copy of any Report furnished to the Authority pursuant to this Agreement.

B. Consultant shall, at such time and in such form as Authority may require, furnish reports concerning the status of services required under this Agreement.

D. All Reports also shall be provided in electronic format.

E. No Report, information or other data given to or prepared or assembled by Consultant pursuant to this Agreement that has not been publicly released shall be made available to any individual or organization by Consultant without prior approval by Authority.

15. **RECORDS**

Consultant shall maintain complete and accurate records with respect to costs, expenses, receipts and other such information required by Authority that relate to the performance of services under this Agreement, in sufficient detail to permit an evaluation of the services and costs. All such records shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to the representatives of Authority or its designees at all proper times, and gives Authority the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a minimum period of five (5) years after Consultant receives final payment from Authority for all services required under this Agreement

16. **CONFIDENTIAL INFORMATION**

Consultant shall maintain in confidence and not disclose to any third party or use in any manner not required or authorized under this Agreement any and all proprietary or confidential information held by Authority or provided to Consultant by Authority.

17. **NOTICES**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals shall be addressed as follows:

TO AUTHORITY:

Clean Energy Alliance
Chief Executive Officer
1200 Carlsbad Village Drive
Carlsbad, CA 92008

TO CONSULTANT:

[Click here to enter consultant name.](#)

[Click here to enter company name.](#)

[Click here to enter street number and street name.](#)

[Click here to enter city, state, and zip code.](#)

19. **TERMINATION**

In the event Consultant fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If Consultant fails to cure the default within the time specified (which shall be not less than 10 days) and according to the requirements set forth in Authority's written notice of default, and in addition to any other remedy available to the Authority by law, the Board of Directors of Authority may terminate the Agreement by giving Consultant written notice thereof, which shall be effective immediately. The Board of Directors also shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) calendar days' prior written notice to Consultant as provided herein. Upon receipt of any notice of termination, Consultant shall immediately discontinue performance.

Authority shall pay Consultant for services satisfactorily performed up to the effective date of termination. Upon termination, Consultant shall immediately deliver to the Authority any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by Consultant or given to Consultant, in connection with this Agreement. Such materials shall become the property of Authority.

20. **COMPLIANCE**

Consultant shall comply with all applicable local, state and federal laws.

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 San Diego, State of California.

22. **ADVERTISEMENT**

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from Authority to do otherwise.

23. **WAIVER**

A waiver by Authority of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

24. **INTEGRATED CONTRACT**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the Parties, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by a written document signed by both Authority and Consultant.

25. **AUTHORITY**

The individual(s) executing this Agreement represent and warrant that they have the legal Authority and authority to do so on behalf of their respective legal entities.

26. **INSERTED PROVISIONS**

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

27. **CAPTIONS AND TERMS**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

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

NAME OF CONSULTANT

CLEAN ENERGY ALLIANCE
A Joint Powers Authority

By: _____
Name:
Title:

By: _____
Name: Barbara Boswell
Title: Interim Chief Executive Officer

APPROVED AS TO FORM:

Counsel for Authority

ATTEST:

Authority Clerk

Exhibit A
Scope of Services

Exhibit B
Schedule of Performance

Task

Due Date

Exhibit C **Compensation**

Authority shall compensate Consultant for professional services in accordance with the terms and conditions of this Agreement based on the rates and compensation schedule set forth below. Compensation shall be calculated based on the hourly rates set forth below up to the not to exceed budget amount set forth below.

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit "A" and reimbursable expenses shall not exceed a total of \$50,000 dollars. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

Rates

Personnel	Title	Hourly

Invoices

Monthly Invoicing: In order to request payment, Consultant shall submit monthly invoices to the Authority describing the services performed and the applicable charges (including a summary of the work performed during that period, personnel who performed the services and hours worked).

Reimbursable Expenses

Administrative, overhead, secretarial time or overtime, word processing, photocopying, in house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. Travel expenses must be authorized in advance in writing by Authority and must include itemized receipts/documentation.

Additional Services

Consultant shall provide additional services outside of the services identified in Exhibit A only by advance written authorization from Authority's Board of Directors prior to commencement of any additional services. Consultant shall submit, at the Board's request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation.

Exhibit D
Insurance Requirements and Proof of Insurance

Proof of insurance coverage described below is attached to this Exhibit, with Authority named as additional insured.

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.