



REQUEST FOR QUALIFICATIONS (“RFQ”)

Technical Assistance for Zero Energy Buildings including End-Use Fuel Switching

Release Date: January 4, 2017

Response Due Date: February 21, 2017 5 pm to programs@sonomacleanpower.org

The Sonoma Clean Power Authority (“SCP”) is seeking individuals and firms with expertise in zero energy buildings, end-use fuel switching, energy efficiency, distributed generation, non-combustion heating and cooling, storage and demand response technologies, managed vehicle charging and building operations and processes. SCP is interested in identifying barriers and appropriate incentives to develop and implement zero energy buildings and end-use fuel switching programs for new and existing buildings and to secure funding to carry out those programs. SCP has focused on cleaner electric power generation offering: *CleanStart* which is 77 percent renewable and carbon free electricity and *EverGreen* electricity produced by 100% renewable generation produced within Sonoma County. SCP is committed to providing electricity at stable rates and will continue to lower greenhouse gas emissions (GHG) over time. This RFQ is intended to expand SCP’s efforts and to better understand how and when electricity is used by our residential, commercial and industrial customers, and to focus on criteria pollutants and GHG emission reductions (emissions efficiency), cost reduction and affordability within Sonoma County’s building sector.

This RFQ is intended to provide SCP with a list of qualified individuals and firms that can be retained to provide assistance as needed on zero energy buildings including end-use fuel switching over the next three years.

I. About Sonoma Clean Power

SCP is a public, locally-run “community choice” power provider in Sonoma County. SCP is the default electric generation provider to all customers in Sonoma County with the exception of the City of Healdsburg. In June 2017, SCP will begin providing service to all of Mendocino County except the City of Ukiah. SCP partners with Pacific Gas and Electric (PG&E), which continues to provide grid management and billing services, while competing with PG&E to provide cleaner and cheaper sources of power. For more information about SCP go to: www.sonomacleanpower.org

SCP’s customers qualify for all energy efficiency programs offered by PG&E. SCP’s goal is to encourage customer participation in those programs as appropriate, and also to offer its own unique customer programs to drive down GHG emissions. Since building energy represents 33% of Sonoma County’s GHG emissions, zero energy buildings and end-use fuel

switching in new and existing buildings has been identified as an important and timely opportunity for SCP and its customers.

II. Description of Services Required

SCP is seeking firms or individuals to assist SCP staff by providing “as needed” services. Respondents may apply to provide one or more of the service categories A-F below, or individual tasks within a category. Firms or individuals must demonstrate that they meet the Minimum Requirements listed under each service category and in part IV of this solicitation in order to be eligible to provide services to SCP.

A. Market Assessment of SCP Customer Buildings, Processes and Operations

Assess needs and opportunities to increase emissions efficiency, comfort and productivity while reducing energy consumption, energy costs, air pollution and GHG emissions in existing and new buildings and their related processes and operations. SCP’s “Zero Energy Buildings and End-Use Fuel Switching” program includes: zero energy techniques, end-use fuel switching, electric or other non-combustion heating and cooling, energy efficiency measures, distributed generation, storage, demand response, heat pumps (air & ground source), managed electric vehicle charging and building operations, processes and training within these areas. A market assessment of residential housing (including affordable and multi-family), commercial and industrial buildings operations and processes for the dairy, agriculture, food processing, light manufacturing and tourism industries is needed. Market assessment must focus on how and when energy is used with an eye towards emissions efficiency and achieving the most cost effective GHG emission reductions, while saving our customers money and improving comfort and productivity. The ability to shape customer electric loads to take advantage of wholesale electricity prices and expand Sonoma County’s renewable energy market is a critical component of the program. The assessment will also determine the electrical capacity of buildings and adjacent transformers, and the potential for conversion of end uses from natural gas and propane to electricity, as well as the potential for electric vehicle charging. An approach to establishing a building scale GHG metric is one of the program’s goals.

Minimum Requirements: Demonstrated experience or expertise in market assessment of opportunities to increase emissions efficiency in new and existing buildings and their related processes and operations including zero energy buildings and end-use fuel switching.

B. Zero Energy Buildings and End-Use Fuel Switching (Retrofits and New Buildings)

Provide technical expertise and advice on zero energy buildings and end-use fuel switching and efficiency. Services needed include: financial and environmental quantification of the benefits of converting to electricity from fossil fuels; identification of market/consumer barriers to adoption, market opportunities, sector-specific opportunities; guidance on building codes, standards, alternative performance metrics and permitting with respect to ZEV measures; engineering design assistance for commercial and industrial fuel switching (e.g., heat pumps, cooking, back-up power systems, etc); design and management of demand response controls on end uses, including aggregation of such resources across SCP’s territory.

Minimum Requirements: Experience in the analysis of buildings and related operations and processes, life-cycle economics, or the development of financial incentives or funding programs to promote deployment of SCP's efforts toward Zero Energy Buildings and End-Use Fuel Switching. Ability to provide technical expertise and advice to identify opportunities, risks and potential benefits within SCP programs related to zero energy buildings and end-use fuel switching. Expertise in utility scale implementation of zero energy buildings and end-use fuel switching.

C. Program Design and Implementation

Assistance in the design of SCP's Zero Energy Buildings and End-Use Fuel Switching programs. Increased understanding in how and when electricity is used by our residential, commercial and industrial customers. Particular attention on emissions efficiency and cost reductions within Sonoma County's building sector. Includes new construction codes, standards and design support, as well as existing structure retrofit opportunities. May leverage existing programs related to education, finance, contractor referral, etc. SCP is also looking for programs that specifically help low income customers lower their energy bills.

Minimum Requirements: Demonstrated experience or expertise in designing and/or administering advanced energy building programs. Experience in at least two of the following categories is required: (a) residential new construction, (b) residential retrofit, (c) multifamily new construction, (d) multifamily retrofit, (e) affordable housing new construction, (f) affordable housing retrofit, (g) commercial new construction, (h) commercial retrofit, (i) industrial process and operations.

D. Program Funding

Identify, prioritize and assist SCP to apply for program funding from various public and/or private agencies. Assist SCP to apply for funding and negotiate funding contracts from the California Energy Commission (CEC), California Air Resources Board (CARB), California Public Utilities Commission (CPUC), U.S. Department of Energy (DOE), U.S. Environmental Protection Agency (U.S. EPA), and private foundations in support of program implementation efforts.

Minimum Requirements: Experience with grant writing and various resource cost calculation methodologies within the CEC, CARB, CPUC, DOE, U.S. EPA and private foundations.

E. Greenhouse Gas Quantification, Measurement and Verification

Provide technical expertise and advice on greenhouse gas emissions forecasting and on-going tracking methodologies including measurement and verification for SCP's Zero Energy Building and End-Use Fuel Switching programs.

Minimum Requirements: Experience in quantifying, measuring, and verifying greenhouse gas impacts and tracking on-going emission impacts and measurement over time.

F. Program Metrics, Value to Customers and SCP, and Evaluation

Many of the measures considered in the program may result in an increase in electricity consumed in order to replace higher emission sources of energy. Traditional building efficiency metrics of energy consumed per unit of output (e.g., kWh/gal of water heated or sq. ft. of space conditioned) will not capture the total value of the program to customers, SCP or the environment. Customers will see an increase in electricity bills in return for decreases in natural gas bills, for example. SCP could gain financial benefits from fuel switching through appropriate program design that directs energy consumption to times of day where there is a grid surplus and reduces consumption during times of shortage. This capability will have increasing value for resource adequacy and flexibility across California as renewable energy production increases over time. Expertise to develop the appropriate metrics centered on reductions in emissions and minimizing the cost of those emission reductions is needed. The value proposition for both customers and SCP must be developed and effective ways to communicate this change in perspective is needed. See, for example, the Electricity Journal article by Denis, Colburn and Lazar entitled “Environmentally Beneficial Electrification: The Dawn of “Emissions Efficiency.”¹ Program evaluation using emissions efficiency metrics for zero energy buildings and end-use fuel switching is also needed.

Minimum Requirements: Demonstrated experience or expertise in developing appropriate metrics for zero energy buildings and fuel switching programs with a focus on GHG emission reductions and efficiency in minimizing the cost of GHG emission reductions. Demonstrated experience or expertise in assessing the value of zero energy buildings and fuel switching programs for both customers and SCP and effective ways to communicate new program metrics and value. Demonstrated experience or expertise in evaluating zero energy buildings and end-use fuel switching programs through emissions efficiency and other appropriate metrics.

Selection and Contract Process

Release of RFQ	Wednesday, January 4, 2017
Proposals Due	Tuesday, February 21 no later than 5:00 p.m.
Interviews	March 2017 TBD
Commencement of Work.....	TBD

Responses that do not include all of the information requested cannot be adequately evaluated.

Evaluation will be based on:

1. Thoroughness of responses.
2. Professional qualifications and demonstrated ability to perform the work.
3. Competence, technical ability and related experience.
4. Ability and history of successfully completing contracts of a similar type, meeting projected deadlines and experience with similar work

¹ <http://www.sciencedirect.com/science/article/pii/S1040619016301075>

5. Exceptions to standard terms in the sample agreement.
6. Proposed rates for services are reasonable and reflective of respondent's experience.
7. Completeness and quality of proposal.
8. Proposed approach to reach project goals.
9. Quality of references.
10. Any other factors SCP deems relevant.

Depending on the responses to this RFQ and interviews, SCP may choose to contract with more than one firm or individual for each service category. Any selected consultant(s) will be contacted by SCP staff to finalize a contract, scope of work and payment schedule for specific projects. SCP staff will evaluate the responses to this RFQ, may, in its discretion, interview selected firms and individuals, and recommend to the Sonoma Clean Power Authority Board of Directors or the Chief Executive Officer the firms and individuals that staff determine are most qualified.

III. Minimum Requirements

Applicants must demonstrate how they meet the Minimum Requirements specified for each task (listed in section II) and demonstrate the ability to obtain insurance policies as specified in Attachment A.

IV. Submittal Requirements

Please submit your qualifications with the following information (maximum page limit: 12 pages):

- A. Cover sheet (1-page) that includes the following information:
 1. Name of the firm or individual proposing
 2. Name of primary contact for this contract
 3. Contact information, including email, for the primary contact
 4. Which tasks for which the firm is providing qualifications
- B. Summary of the firm or individual proposing to provide services, including name of primary contact for this contract and list of key personnel who would be working on projects. Include brief resumes for the primary contact and key personnel.
- C. Provide a professional fee schedule for the primary contact and the key personnel identified above. Unless specified in the submittals, the professional fee schedule will include any costs associated with complying with the insurance and other contractual requirements as specified in Attachment A.
- D. For each service area sought, provide at least one (1) but no more than three (3) examples of projects (or programs) that best demonstrate the individual's or firm's expertise and ability to meet the Minimum Requirements in that service area. Please limit the description of the projects to one half of one page per project.
 1. Explain the role the individual or firm played in each program/project.
 2. Describe the key achievements of the program/project.

3. Provide a client reference for each qualification that can provide information on the individual's or firm's participation in the project/program. Provide the client reference's name, title, employer, and phone number.
- E. Description of any exceptions to the SCPA's standard form of agreement (Attachment A). Contract provisions not excepted in the submission will not be subject to later negotiation.

V. Application Deadline and Instructions

The deadline for submittal of proposals is 5:00 p.m., Tuesday, February 21, 2017. No proposals will be accepted after that time.

Email submittals should be sent to programs@sonomacleanpower.org with the subject line clearly marked "Technical Assistance for Zero Energy Buildings and End-Use Fuel Switching RFQ Response." Upon submittal, you will receive a confirmation of receipt. Hard copy submittals are to be printed double-sided on 8-1/2" x 11" recycled content paper where applicable. Please do not bind submissions or submit plastic covers.

One copy of the proposal should be emailed (preferred), mailed or hand delivered to: Sonoma Clean Power, 50 Santa Rosa Avenue, 5th floor, Santa Rosa, 95404, Attention: Jan McFarland, Director of Programs. Faxed responses will not be accepted.

VI. General Conditions

Contracts for services will be between the consultant and SCP. Consultants shall also be subject to additional conditions that may be required by a funder.

All proposals submitted in response to this request shall be subject to disclosure under the California Public Records Act. In the event that a Proposer desires to claim portions of its proposal exempt from disclosure, it is incumbent upon the Proposer to clearly identify those portions with the word "confidential" printed on the lower right-hand corner of the page. SCP will consider a Proposer's request for exemption from disclosure; however, the SCP will make a decision based upon applicable laws. Assertions by a Proposer that the entire proposal or large portions are exempt from disclosure will not be honored. All responses to this Request for Proposals shall become the property of SCP and will be retained or disposed of accordingly.

Respondents bear all costs associated with responding to this RFQ, and SCP will provide no compensation for these costs.

Issuance of this RFQ is not a guarantee that SCP will enter into any contract with any respondent. SCP reserves the right, at its sole discretion, to waive irregularities in submittal requirements, to request modifications of any proposal, to accept or reject any or all proposals received, and to cancel all or part of this RFQ at any time prior to awards.

For inquiries about this RFQ, contact: Jan McFarland, Director of Programs via e-mail at jmcfarland@sonomacleanpower.org.

ATTACHMENT A: FORM OF PROFESSIONAL SERVICES AGREEMENT
RFQ for Technical Assistance for Zero Energy Buildings including End-Use Fuel Switching

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement for Professional Services ("Agreement"), dated as of _____ ("Effective Date") is made by and between the Sonoma Clean Power Authority ("SCPA"), a California joint powers authority, and _____ ("Consultant"). SCPA and Consultant may be individually referred to as a "Party" or collectively as "Parties."

1. **Scope of Services:** Consultant agrees to provide any and all of the services as described in Exhibit A.
2. **Performance Standard:** Consultant warrants that it possesses the necessary training, experience and skill to competently and professionally provide the services described in Exhibit A. If SCPA determines that any of Consultant's work is not in accordance with the level of competency and standard of care normally observed by a person practicing in Consultant's profession, SCPA, in its sole discretion, shall have the right to do any or all of the following:
 - a. require Consultant to meet with SCPA to review the quality of Consultant's work and resolve matters of concern;
 - b. require Consultant to repeat the work at no additional charge until the work meets the level of competency and standard of care normally observed by a person in Consultant's profession;
 - c. terminate this Agreement pursuant to Section 6; or
 - d. pursue any and all other remedies at law or in equity.
3. **Staffing and Coordination:** Consultant shall cooperate, and closely coordinate, with SCPA staff in providing all services under this Agreement.
4. **Payment:** Consultant shall submit one invoice for each calendar month in which services are performed. Invoices shall be signed by Key Staff, include copies of receipts for pre-approved reimbursable expenses, and contain the following detail for each billable entry:
 - a. Date
 - b. Detailed description of work performed and person(s) involved
 - c. Time spent in 1/10th hour increments

Upon receipt of properly prepared invoicing, SCPA shall pay Consultant within 30 calendar days for services provided in accordance with this Agreement, applying the following rates:

- a. Fees based on Fee Schedule as set forth in Exhibit A.
- b. Reimbursable expenses must be pre-approved by SCPA.

In no event shall the amount payable for services performed during the term of this Agreement exceed \$_____.

5. **Term of the Agreement:** The initial term of this Agreement shall be from the Effective Date to _____, unless terminated pursuant to Section 6 or amended by a written, executed amendment to the Agreement. Consultant understands and agrees that funding for costs under this Agreement after July 1, 2017 is subject to approval by SCPA's Board of Directors of a budget including such funding, and that SCPA may terminate this Agreement pursuant to Section 6 below if such funding is not approved.
6. **Termination:** Notwithstanding any other provision of this Agreement, at any time and without cause, the Parties shall have the unequivocal right to terminate this Agreement by giving thirty (30) calendar days written notice to the other Party. Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations or violate any of the terms of this Agreement (Termination for Cause), SCPA may, upon providing Consultant written notice stating the reason for termination, immediately terminate this Agreement. In the event of termination, Consultant, within fourteen (14) calendar days following the date of termination, shall deliver to SCPA all materials and work product subject to Section 16 and shall submit to SCPA a final invoice for all outstanding payments.
7. **Indemnification:** Consultant agrees to accept all responsibility for loss or damage to any person or entity, including the SCPA, and to indemnify, hold harmless, and release the SCPA, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Consultant, that arise out of, pertain to, or relate to Consultant's performance of or obligations under this Agreement. Consultant agrees to provide a complete defense for any claim or action brought against the SCPA based upon a claim relating to Consultant's performance or obligations

under this Agreement. Consultant's obligations under this Section 7 apply whether or not there is concurrent negligence on the SCPA's part, but to the extent required by law, excluding liability due to the SCPA's conduct. The SCPA shall have the right to select its legal counsel at Consultant's expense, subject to Consultant's approval, which shall not be unreasonably withheld.

8. **Insurance:** Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived in writing by SCPA.
 - a. If Consultant has employees at any time during the term of this Agreement, Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California, and Employers Liability with minimum limits of \$1,000,000 per accident; \$1,000,000 disease per employee; \$1,000,000 disease per policy.
 - b. Commercial General Liability Insurance with Minimum Limits: \$1,000,000 per occurrence; \$2,000,000 general aggregate; \$2,000,000 products/completed operations aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Umbrella Liability Insurance. If Consultant maintains higher limits than the specified minimum limits, SCPA requires and shall be entitled to coverage for the higher limits maintained by Consultant.
 1. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. Deductibles or self-insured retention that exceeds \$25,000 must be approved in advance by SCPA. Consultant is responsible for any deductible or self-insured retention and shall fund it upon SCPA's written request, regardless of whether Consultant has a claim against the insurance or is named as a party in any action involving SCPA.
 2. SCPA shall be an additional insured for liability arising out of operations by, or on behalf of, the Consultant in the performance of this Agreement.
 3. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
 4. The policy shall cover inter-insured suits between the additional insureds and Consultant and include a "separation

of insureds” or “severability” clause which treats each insured separately.

- c. Automobile Liability Insurance with Minimum Limit of \$1,000,000 combined single limit per accident. Automobile Insurance shall apply to all owned autos. If Consultant currently owns no autos, Consultant agrees to obtain such insurance should any autos be acquired during the term of this Agreement. Automobile Insurance shall apply to hired and non-owned autos.
- d. Professional Liability/Errors and Omissions Insurance with Minimum Limit of \$1,000,000 per claim or per occurrence. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by SCPA. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work. Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.
- e. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A: VII.
- f. The Certificate of Insurance must include the following reference: Sonoma Clean Power Authority.
- g. All required Evidence of Insurance shall be submitted to SCPA within 3 business days of the Effective Date. Consultant agrees to maintain current Evidence of Insurance on file with SCPA for the entire term of this Agreement.
- h. The name and address for Additional Insured endorsements and Certificates of Insurance is: Sonoma Clean Power Authority, Attn: Contract Administration, 50 Santa Rosa Avenue, Fifth Floor, Santa Rosa, CA, 95404.
- i. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) business days before expiration or other termination of the existing policy.
- j. Consultant shall provide SCPA immediate written notice if:
 - 1. any of the required insurance policies are terminated;
 - 2. the limits of any of the required policies are reduced; or
 - 3. the deductible or self-insured retention is increased.

- k. Upon written request, certified copies of required insurance policies must be provided within thirty (30) calendar days.
 - l. Consultant's indemnity and other obligations shall not be limited by these insurance requirements.
9. **Status of Consultant:** Consultant, in performing the services under this Agreement, shall act as an independent contractor and shall control the work and the manner in which it is performed. At no time shall Consultant work as an agent or employee of SCPA and at no time shall Consultant be entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits SCPA provides its employees. In the event SCPA exercises its right to terminate this Agreement pursuant to Section 6, Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.
10. **No Suspension or Debarment:** Consultant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any state or federal department or agency. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration.
11. **Taxes:** Consultant agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement. Consultant shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Consultant agrees to indemnify and hold SCPA harmless from any liability which it may incur to the United States or to any US State as a consequence of Consultant's failure to pay, when due, all such taxes and obligations. In the event SCPA is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to, in a timely fashion, furnish SCPA with proof of payment of taxes on these earnings.
12. **Records Maintenance:** Consultant shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to SCPA for inspection at any reasonable time. Consultant shall maintain

such records for a period of five (5) years following the expiration or termination of this Agreement.

13. **Conflict of Interest:** Consultant warrants that it presently has no interest, and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with Consultant's performance under this Agreement. Consultant further warrants that in the performance of this Agreement no person having any such interests shall be assigned by Consultant to perform work under this agreement nor be given access to the information described in Section 16. Consultant shall comply with any and all applicable California Fair Political Practices Act requirements.
14. **Statutory Compliance:** Contractor shall comply with all applicable federal, state and local laws, regulations, statutes and policies applicable to the services provided under this Agreement.
15. **Nondiscrimination:** Without limiting any other provision of this Agreement, Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated by reference.
16. **Confidentiality, Ownership and Disclosure of Work Product:** All information obtained by Consultant under this Agreement shall be deemed confidential ("Confidential Information"). Unless SCPA provides written permission, Consultant is compelled by a court of law or regulatory agency, or Consultant obtained Confidential Information from a source or sources other than SCPA, Consultant shall not share Confidential Information with any other person or entity outside of SCPA staff and SCPA authorized representatives. Consultant further agrees to execute non-disclosure agreements related to protecting Confidential Information as requested by SCPA. Provisions related to Confidential Information shall survive expiration or termination of the Agreement for a period of five (5) years. All reports, original drawings, graphics, plans, studies, and other data or documents ("Documents"), in whatever form or format, produced by Consultant or Consultant's subcontractors, consultants, and other

agents within the term and scope of this Agreement shall be the property of SCPA. SCPA shall be entitled to immediate possession of such Documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Consultant shall promptly deliver to SCPA all such Documents, which have not already been provided to SCPA in such form or format, as SCPA deems appropriate. Such Documents shall be and will remain the property of SCPA without restriction or limitation.

17. **Assignment and Delegation:** Parties shall not assign, delegate, sublet, or transfer any interest in, or duty under, this Agreement without the prior written consent of the other.
18. **Written Communications:** All written communications, including notices, bills and payments, may be made via electronic mail or to the following addresses:

TO: SCPA:

Sonoma Clean Power Authority
Attn: Contract Administration
50 Santa Rosa Avenue, 5th Floor
Santa Rosa, CA 95404

TO: CONSULTANT:

19. **No Waiver of Breach:** The waiver by SCPA of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.
20. **Construction:** To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The Parties agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated. The Parties acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not

be construed against one Party in favor of the other. Parties acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

21. **Consent:** Wherever in this Agreement the consent or approval of one Party is required to an act of the other Party, such consent or approval shall not be unreasonably withheld or delayed.
22. **No Third Party Beneficiaries:** Nothing contained in this Agreement shall be construed to create, and the Parties do not intend to create, any rights in third parties.
23. **Applicable Law and Forum:** This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement, or for the breach of this Agreement, shall be brought and tried in Santa Rosa, California, or the forum nearest to the city of Santa Rosa, in the County of Sonoma.
24. **Exhibits:** In the event of a conflict between the body of this Agreement and any Exhibits or attachments, the language in the body of this Agreement shall prevail.
25. **Captions:** The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.
26. **Merger:** This writing is intended both as the final expression of the Agreement between the Parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to California Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both Parties.
27. **Survival of Terms:** All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
28. **Time of Essence:** Time is and shall be of the essence of this Agreement and every provision within this Agreement.

By signing below, the signatories warrant that each has authority to execute this Agreement on behalf of their respective Parties, and that this Agreement is effective as of the Effective Date.

Consultant

Date: _____

Sonoma Clean Power Authority:

By: _____

Geof Syphers
Chief Executive Officer

Date: _____

APPROVED AS TO FORM FOR SCPA:

By: _____

General Counsel

Date: _____

DRAFT

Exhibit A

Scope of Work

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