



Consent Item 6

TO: East Bay Community Energy Board of Directors

FROM: Jason Bartlett, Finance Manager

SUBJECT: Second Amendment to the Maher Accountancy CSA

DATE: November 18, 2020

Recommendation

Adopt a Resolution authorizing the CEO to negotiate and execute the Second Amendment to the Maher Accountancy Consulting Service Agreement (CSA) to extend the term through December 31, 2021, add additional compensation, and update the monthly rates of compensation.

Background and Discussion

EBCE uses an independent Accountant to support ongoing financial operations. The Accountant is crucial to supporting all of EBCE's financial functioning including invoicing, payments, and reporting.

Per Resolution No R-2018-16, EBCE staff solicited bids for accounting services and selected Maher Accountancy in April of 2018. Although the Resolution allowed for a two-year engagement, the original CSA was for 13 months of service from June 1, 2018 to June 30, 2019 and was extended for a six-month period through December 31, 2019.

The First Amendment to the CSA, dated December 3, 2019, added \$200,000 to the not-to-exceed amount for a total amount not to exceed \$299,000 and extended the term of service for one calendar year from January 1, 2020 through December 31, 2020.

During the contracted period, Maher Accountancy has assisted with three audits and has performed exceptionally well in managing EBCE's books and ledgers. The firm's familiarity with the CCA space is unparalleled as they are the accounting firm for several other CCAs, including Clean Power Alliance, Marin Clean Energy, Monterey Bay Community Power, Peninsula Clean Energy, Silicon Valley Clean Energy, and Sonoma Clean Power.

For the 2021 calendar year, EBCE has negotiated a contract price with Maher Accountancy for \$16,250 per month. This new rate will place EBCE in the “middle of the pack” of what Maher Accountancy charges other CCAs for their service, which goes above \$20,000 per month for the largest CCAs. In addition to the monthly charge, Maher Accountancy charges an additional one-time fee of \$15,000 to provide accounting assistance with EBCE’s annual audit. This also remains competitive with the original CSA. The Second Amendment will increase the not-to-exceed amount by \$210,000 for a total amount not to exceed \$509,000.

EBCE wishes to continue to benefit from the expertise of Maher Accountancy and seeks Board approval to extend the current contract for an additional year through December 31, 2021 and to add an additional \$210,000 to the contract budget.

Fiscal Impact

The Amendment will provide for a monthly fixed rate of \$16,250 through the calendar year, which is \$195,000. An additional charge of \$15,000 is included to provide accounting services to assist with the annual audit for the 2020-2021 fiscal year. Together, the total not-to-exceed amount for the term of January 1, 2021 through December 31, 2021 is \$210,000.

Attachments

- A. Resolution Authorizing the CEO to Execute a Second Amendment to the Consulting Services Agreement with Maher Accountancy
- B. Second Amendment to the Consulting Services Agreement for Services by and Between East Bay Community Energy Authority and Maher Accountancy

RESOLUTION NO. __

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO EXECUTE A SECOND AMENDMENT TO THE CONSULTING SERVICES AGREEMENT WITH MAHER ACCOUNTANCY

THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY DOES HEREBY FIND, RESOLVE AND ORDER AS FOLLOWS:

WHEREAS, The East Bay Community Energy Authority (“EBCE”) was formed as a community choice aggregation agency (“CCA”) on December 1, 2016, Under the Joint Exercise of Power Act, California Government Code sections 6500 *et seq.*, among the County of Alameda, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City to study, promote, develop, conduct, operate, and manage energy-related climate change programs in all of the member jurisdictions. The cities of Newark and Pleasanton, located in Alameda County, along with the City of Tracy, located in San Joaquin County, were added as members of EBCE and parties to the JPA in March of 2020.

WHEREAS, The Board of Directors delegated authority to the CEO to select an accounting firm in April 2018, after EBCE solicited bids.

WHEREAS, EBCE entered into a Consulting Services Agreement with Maher Accountancy for a term of one year from May 31, 2018 through June 30, 2019. EBCE then entered into another Consulting Services Agreement with Maher Accountancy from July 1, 2019 through December 31, 2019.

WHEREAS, EBCE executed a First Amendment to the July 1, 2019 Consulting Services Agreement with Maher Accountancy for a term of one year from January 1, 2020 through December 31, 2020.

WHEREAS, Maher Accountancy has extensive experience providing accounting services to CCAs specifically, and it continues to provide service at competitive costs relative to similar services provided to other CCAs.

WHEREAS, EBCE would like to continue to benefit from Maher Accountancy’s expertise through December 31, 2021.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Board of Directors hereby authorizes the CEO to negotiate and execute a Second Amendment to the Consulting Services Agreement with Maher Accountancy to extend the term through December 31, 2021, to increase the total compensation by an amount not to exceed \$210,000, and to update the monthly rates of compensation.

ADOPTED AND APPROVED this 18th day of November, 2020.

Dan Kalb, Chair

ATTEST:

Stephanie Cabrera, Clerk of the Board

**Second Amendment to Consulting Services Agreement by and Between
East Bay Community Energy Authority and Maher Accountancy**

This Second Amendment to the Agreement with Maher Accountancy for Consulting Services (“Second Amendment”) is made this 18th day of November, 2020, by and between the East Bay Community Energy Authority, a Joint Powers Agency formed under the laws of the State of California (“EBCE”) and Maher Accountancy, a California corporation, for the purposes extending the termination date, adding additional compensation, and updating the monthly rates of compensation.

Recitals

- A. EBCE and Maher Accountancy entered into that certain Consulting Services Agreement dated July 1, 2019 (“Agreement”), wherein Maher Accountancy agreed to provide accounting services to EBCE, with compensation not to exceed \$99,000 through December 31, 2019.
- B. EBCE and Maher Accountancy entered into that certain First Amendment to the Consulting Services Agreement on December 3, 2019 to extend the term through December 31, 2020 and to increase the not-to-exceed amount by \$200,000 for a total amount not to exceed \$299,000.
- C. EBCE and Maher Accountancy now desire to further amend the Agreement to extend the term, to add additional compensation, increasing the not-to-exceed amount by \$210,000 for a total amount not to exceed \$509,000, and to update the monthly rates of compensation.

Now therefore, for good and valuable consideration, the amount and sufficiency of which is hereby acknowledged, the Parties agree as follows:

- 1. Section 2 of the Agreement (“Term”) is amended to extend the term of the Agreement through December 31, 2021.
- 2. Section 6 of the Agreement (“Compensation and Payment”) is amended in part to increase the total compensation of the Agreement by \$210,000 for a total amount not to exceed five hundred nine thousand dollars (\$509,000)..
- 3. Exhibit E (“Compensation/Budget”) of the Agreement is replaced in its entirety by Exhibit E, attached hereto.
- 4. All other terms and conditions in the Agreement not otherwise modified by this Second Amendment will remain in full force and effect.

In witness whereof, the Parties have entered this Amendment on the date written above.

East Bay Community Energy Authority,
A Joint Powers Authority

Maher Accountancy
A California corporation

Nick Chaset
Chief Executive Officer

John W. Maher
President

Date: _____

Date: _____

Approved as to form:

Michael Maher
Vice President and Treasurer

EBCE General Counsel

Date: _____

Exhibit E

COMPENSATION/BUDGET

Compensation

Monthly Financial Operational Assistance Fee: **\$16,250**

Annual Financial Statement Audit Management Fee: **\$15,000**

The maximum compensation allowed under this Agreement is not to exceed \$509,000. The maximum compensation for the term of January 1, 2021 through December 31, 2021 is not to exceed **\$210,000**.

Additional services not included in the scope of this document will be subject to an additional charge as agreed upon by the parties.^[MG1]

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 EBCE and shall only be reimbursed to the extent consistent with EBCE's travel policy. Transaction fees for cloud-based accounts payable system (Bill.com) will be borne by EBCE.

Exhibit E

COMPENSATION/BUDGET

Compensation

Monthly Financial Operational Assistance Fee: **\$16,250**
Annual Financial Statement Audit Management Fee: **\$15,000**

The maximum compensation under this Agreement is **\$210,000**.

Additional services not included in the scope of this document will be subject to an additional charge as agreed upon by the parties.

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 EBCE and shall only be reimbursed to the extent consistent with EBCE's travel policy. Transaction fees for cloud-based accounts payable system (Bill.com) will be borne by EBCE.