



Board of Directors Meeting
Wednesday, December 15, 2021
5:00 pm

<https://us02web.zoom.us/j/87023071843>

Dial (for higher quality, dial a number based on your current location): US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 929 205 6099 or +1 301 715 8592 or 888 475 4499 (Toll Free) or 877 853 5257 (Toll Free)

Webinar ID: 870 2307 1843

Meetings are accessible to people with disabilities. Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the meeting materials, should contact the Clerk of the Board at least 2 working days before the meeting at (510) 906-0491 or cob@ebce.org.

If you have anything that you wish to be distributed to the Board, please email it to the clerk by 5:00 pm the day prior to the meeting.

1. **Welcome & Roll Call**
2. **Pledge of Allegiance**
3. **Public Comment**

This item is reserved for persons wishing to address the Board on any EBCE-related matters that are not otherwise on this meeting agenda. Public comments on matters listed on the agenda shall be heard at the time the matter is called. As with all public comment, members of the public who wish to address the Board are customarily limited to three minutes per speaker. The Board Chair may increase or decrease the time allotted to each speaker.

CONSENT AGENDA

4. **Adoption of Imminent Risks Findings Pursuant to AB 361 and Authorization to Continue Meeting via Teleconferencing.**
5. **Contracts Entered into (Informational Item)**
6. **Adopt a Resolution authorizing CEO to negotiate and execute a Consulting Service Agreement with Acterra to offer an induction Cooktop Lending Program to EBCE's residential customers**

7. **Adopt a Resolution authorizing the CEO to negotiate and execute a Third Amendment to the Consulting Services Agreement with Weideman Group, Inc.**
8. **Summary of changes made to service terms and conditions to support product transitions in January 2022**
9. **Adopt a Resolution authorizing CEO or Treasurer to execute a Consulting Service Agreement with Maher Accountancy**
10. **Adopt a Resolution amending the Conflict of Interest Code clarifying those certain specified positions (BODs & Treasurer) must file a Form 700 under Government Code Section 87200**

REGULAR AGENDA

11. **CEO REPORT**
 - a. CC Power Policies
 - b. Presentation on Service Transitions
12. **Community Advisory Committee Report - (Verbal report)**
13. **Adopt a Resolution approving a fifth amended and restated Administrative Procurement Policy to include a preference for Disabled Veteran Owned Businesses and Businesses located in Disadvantaged Communities**
14. **Board Member and Staff Announcements including requests to place items on future Board Agendas**
15. **Adjournment - to Wednesday January 19, 2022 5:00 p.m.**

CERTIFICATION OF POSTING

I, Lori Frontella, MMC, Acting Board Clerk, do hereby declare under penalty of perjury that the foregoing agenda was posted on Website at www.ebce.org and made available for public review prior to or at 5:00 p.m., December 10, 2021.

Date Posted: December 10, 2021

Time Posted:

Lori Frontella, MMC, Board Clerk



Staff Report Item 4

TO: East Bay Community Energy Board of Directors

FROM: Inder Khalsa, General Counsel

SUBJECT: Adoption of Imminent Risks Findings Pursuant to AB 361 and Authorization to Continue Meeting via Teleconferencing

DATE: December 15, 2021

Recommendation

Find that conducting in-person meetings of the Board would present imminent risks to attendees' health and authorize the Board to continue meeting via teleconferencing pursuant to Government Code Section 54953(e).

Background and Discussion

On March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency related to COVID-19, pursuant to Government Code Section 8625, which is still in effect. On March 10, 2020, the Alameda County Board of Supervisors ratified the County Health Officer's declaration of a local health emergency due to COVID-19.

The Brown Act allows legislative bodies to meet by "teleconference," but only if the agenda listed the remote location of each member, the agenda was posted at all remote locations, and the public could access any of the remote locations. Additionally, a quorum of the legislative body had to be within the legislative body's jurisdiction. See Government Code Section 54953(b)(3)

Due to the COVID-19 pandemic, the Governor issued Executive Order N-29-20, suspending certain sections of the Brown Act. Pursuant to the Executive Order, legislative bodies no longer needed to list the location of each remote attendee, post agendas at each remote location, or allow the public to access each location. Further, a quorum of the legislative body does not need to be within the legislative body's

jurisdiction. After several extensions, Executive Order N-29-20 expired on September 30, 2021.

On September 16, 2021 Governor Newsom signed AB 361, new legislation that amends the Brown Act to allow local agencies to meet remotely during Governor declared emergencies under certain conditions. AB 361 took effect immediately as an urgency measure, but the Governor subsequently suspended application of the legislation – with limited exceptions – until October 1, 2021. The provisions of AB 361 relevant to local agencies are codified at Government Code Section 54953(e).

AB 361 authorizes local agencies to continue meeting remotely without following the Brown Act's standard teleconferencing provisions if the meeting is held during a state of emergency proclaimed by the Governor and either of the following applies: (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the agency has already determined or is determining whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

The legislative body must make the required findings every 30 days, until the end of the state of emergency or recommended or required social distancing.

AB 361 also requires legislative bodies to make remote public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body, and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Brown Act. AB 361 adds new procedures and clarifies the requirements for conducting remote meetings. A legislative body that meets remotely must allow members of the public to access the meeting via a call-in option or an internet-based service option, and the agenda for the remote meeting must provide an opportunity for members of the public to directly address the body in real time.

Due to the rise in COVID-19 cases caused by the Delta Variant, Alameda County is still impacted by the effects of the COVID-19 emergency. The Centers for Disease Control (CDC) recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated or who are at higher risk of getting very sick from COVID-19. The CDC also recommends that people who live with unvaccinated people avoid activities that make physical distancing hard.

EBCE's public-meetings are held at indoor facilities not designed to ensure circulation of fresh or outdoor air, particularly during periods of cold and/or rainy weather, and were not designed to ensure that attendees can remain six (6) feet apart. Additionally, holding in-person meetings may encourage community members to come to EBCE facilities to participate in EBCE meetings in-person, and some of them could be at high risk of getting very sick from COVID-19 and/or live with someone who is at high risk. At this point in time, there are few in-person locations available for the EBCE to meet in, since most of the agencies in Alameda County are still holding remote meetings.

In-person meetings could also tempt community members who are experiencing COVID-19 symptoms to leave their homes in order to come to EBCE Board meetings to participate. Attendees may need to use ride-share services and/or public transit to travel to in-person meetings, thereby putting them in close and prolonged contact with additional people outside of their households.

For these reasons, staff recommends that the Board adopt findings that, as a result of the state of emergency caused by COVID-19, meeting in person would present imminent risks to the health and safety of attendees.

Staff will continue to monitor the situation and will return to the Board every 30 days or as needed with additional recommendations related to the conduct of public meetings.

Attachments

- Proclamation of Governor Newsom of a State of Emergency due to COVID-19
- Resolution No. R-2020-91 of the Alameda County Board of Supervisors Ratifying the Declaration of a Local Health Emergency due to COVID-19

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.
3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.
4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.
5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.
6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and

notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

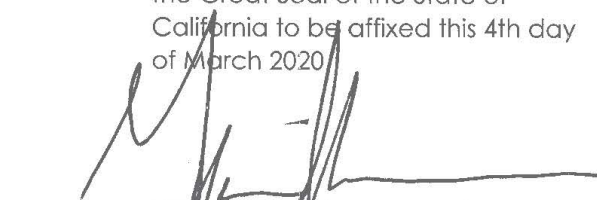
7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.
8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.
9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.
10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.
11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.
12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The

notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.
14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of March 2020



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State



March 6, 2020

The Honorable Board of Supervisors
County Administration Building
1221 Oak Street
Oakland, CA 94612

SUBJECT: ADOPT A RESOLUTION RATIFYING THE DECLARATION OF A LOCAL HEALTH EMERGENCY BY THE COUNTY HEALTH OFFICER RELATED TO THE 2019 NOVEL CORONAVIRUS

Dear Board Members:

RECOMMENDATION

Adopt a Resolution ratifying the Declaration of a Local Health Emergency by the County Health Officer related to the 2019 Novel Coronavirus

DISCUSSION/SUMMARY

In December 2019, an outbreak of a respiratory illness due to a novel coronavirus (a disease known as 2019 Novel Coronavirus or COVID-19) was first identified in Wuhan City, Hubei Province, China. Since then, the outbreak has spread to more than 75 countries, including the United States. As of March 5, 14 California counties have had at least one citizen infected with the virus. The County of Alameda is among those counties, as are several Bay Area counties including Contra Costa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

The United States Centers for Disease Control and Prevention (CDC) considers COVID-19 to present a very serious threat to public health. On January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the United States. On January 31, 2020, the Secretary of the US Department of Health and Human Services declared a public health emergency in the United States.

As of March 6, 2020, the CDC has identified 164 confirmed cases of COVID-19 infection, across 19 states, including 45 in California. The number of reported cases has escalated dramatically, with more than 94,000 confirmed cases and more than 3,300 deaths worldwide.

On March 1, 2020, the California Department of Public Health confirmed that an Oakland resident had become infected with COVID-19 after providing healthcare to the Solano County COVID-19 patient. Two days later, an individual in Berkeley also tested positive for COVID-19 Infection.

California Health and Safety Code section 101080 allows a local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, "whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent." On March 1, 2020, Alameda County Interim Health Officer Erica Pan, MD, MPH, FAAP declared a local health emergency. Dr. Pan found that with "multiple cases of COVID-19 and evidence of community transmission in the region, there is an ongoing risk and likelihood of additional COVID-19 positive patients and community spread in the County of Alameda." Dr. Pan renewed this declaration of emergency on March 5, 2020.

The declaration of a local health emergency provides the following benefits: it allows other jurisdictions and state agencies to provide mutual aid; it allows the extraordinary costs of providing mutual aid to be a legal charge against the state; and it provides immunity to healthcare providers who render aid during the emergency. The declaration also provides the local Health Officer with the authority to exercise the full range of her power to protect the community's public health, which includes issuance and enforcement of orders for quarantine and isolation.

Under section 101080, your Board is required to ratify the Health Officer's declaration of emergency. Ordinarily, your Board would need to renew this ratification every thirty (30) days; however, on March 4, 2020, California Governor Gavin Newsom issued a Proclamation of a State of Emergency relating to the COVID-19 outbreak that included a waiver of the renewal requirement: "The 30-day time period in Health & Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local emergency." The Governor similarly waived the renewal requirement for a declaration of local emergency.

VISION 2026 GOAL

This Resolution meets the 10X goal pathway of **Healthcare for All** in support of our shared visions of **Safe and Livable Communities**, **Thriving and Resilient Population**, and **Healthy Environment**.

Sincerely,

DocuSigned by:


CB284AE84C50405...
Colleen Chawla, Director
Health Care Services Agency

RESOLUTION NUMBER R-2020- 91

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA RATIFYING THE DECLARATION OF LOCAL HEALTH EMERGENCY BY THE COUNTY HEALTH OFFICER RELATED TO THE 2019 NOVEL CORONAVIRUS

WHEREAS, California Health and Safety Code section 101080 authorizes a local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, non-communicable biological agent, toxin, or radioactive agent; and

WHEREAS, on March 1, 2020 and again on March 5, 2020, the County's Health Officer declared a local health emergency based on an imminent and proximate threat to public health from the introduction of a novel coronavirus (named COVID-19) in the County of Alameda; and

WHEREAS, under Health and Safety Code section 101080, the local health emergency shall not remain in effect for more than seven (7) days unless ratified by the Board of Supervisors; and

WHEREAS, the Board of Supervisors hereby finds that there continues to exist an imminent and proximate threat to public health from the introduction of COVID-19 in the County for reasons set forth in the declaration of local health emergency by the County's Health Officer, dated March 5, 2020;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Alameda as follows:

Section 1 – The local health emergency declared by the County's Health Officer on March 5, 2020 is hereby ratified. Under authority granted by California Governor Gavin Newsom in a Proclamation of a State of Emergency issued on March 4, 2020, this declaration of local emergency shall remain in effect until the Board of Supervisors determines that the emergency condition no longer exists.

Section 2 – The Board of Supervisors hereby delegates to the County's Health Officer authority to terminate the local health emergency, pursuant to Health & Safety Code section 101080 "at the earliest possible date that conditions warrant the termination."

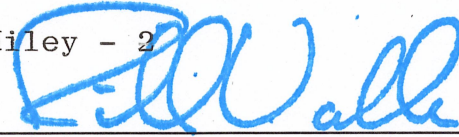
Section 3 – All County departments and agencies take those actions, measures, and steps deemed necessary to assure the health, safety, and welfare of County citizens and property, including requesting mutual aid to the extent such aid is necessary.

The foregoing Resolution was passed and adopted by the Board of Supervisors of the County of Alameda, State of California, at a regular meeting of the Board on the 10 day of March, 2020 by the following vote:

AYES: Supervisors Carson, Haggerty and President Valle - 3

NOES: None

EXCUSED: Supervisors Chan and Miley - 2

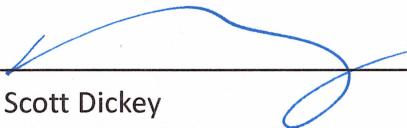


Richard Valle, President of the Board of Supervisors

ATTEST:
Clerk of the Board of Supervisors,
County of Alameda, State of California

By: 
Deputy

APPROVED AS TO FORM:
Donna R. Ziegler, County Counsel

By: 
K. Scott Dickey
Assistant County Counsel

DECLARATION OF A LOCAL HEALTH EMERGENCY

WHEREAS, Health and Safety Code section 101080 authorizes a local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent;

WHEREAS, COVID-19 is a contagious, infectious, or communicable disease;

WHEREAS, the Secretary of the United States Department of Health and Human Services declared a public health emergency on January 31, 2020, for the United States;

WHEREAS, the Centers for Disease Control and Prevention announced on February 25, 2020, that community spread of COVID-19 is likely to occur in the United States;

WHEREAS, the first confirmed case of COVID-19 has now been identified in the County of Alameda;

WHEREAS, the Governor Gavin Newsom issued a Proclamation of a State of Emergency on March 4, 2020 for California;

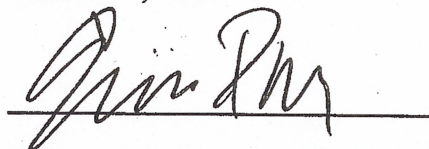
WHEREAS, based on the United States Department of Health and Human Services declaration and the Centers for Disease Control and Prevention statements, and multiple cases of COVID-19 and evidence of community transmission in the region, there is an ongoing risk and likelihood of additional COVID-19 positive patients and community spread in the County of Alameda;

WHEREAS, based on the foregoing, the Health Officer of Alameda County does hereby find that there is an imminent and proximate threat of the introduction and spread of COVID-19 in the County of Alameda and a threat to the public health of the residents of the County of Alameda;

THEREFORE, the County Health Officer hereby declares a renewal of a local health emergency originally declared on March 1st, 2020 throughout the County of Alameda;

IT IS SO DECLARED, on this date: March 5th, 2020.

BY:



Name: Dr. Erica Pan

Title: Interim Health Officer

Public Health Department, County of Alameda

DECLARATION OF A LOCAL HEALTH EMERGENCY

WHEREAS, Health and Safety Code section 101080 authorizes a local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent;

WHEREAS, COVID-19 is a contagious, infectious, or communicable disease;

WHEREAS, the Secretary of the United States Department of Health and Human Services declared a public health emergency on January 31, 2020, for the United States;

WHEREAS, the Centers for Disease Control and Prevention announced on February 25, 2020, that community spread of COVID-19 is likely to occur in the United States;

WHEREAS, the first confirmed case of COVID-19 has now been identified in the County of Alameda;

WHEREAS, the Governor Gavin Newsom issued a Proclamation of a State of Emergency on March 4, 2020 for California;

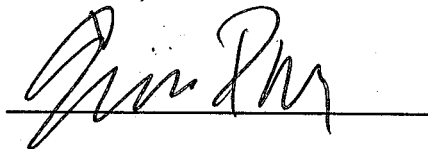
WHEREAS, based on the United States Department of Health and Human Services declaration and the Centers for Disease Control and Prevention statements, and multiple cases of COVID-19 and evidence of community transmission in the region, there is an ongoing risk and likelihood of additional COVID-19 positive patients and community spread in the County of Alameda;

WHEREAS, based on the foregoing, the Health Officer of Alameda County does hereby find that there is an imminent and proximate threat of the introduction and spread of COVID-19 in the County of Alameda and a threat to the public health of the residents of the County of Alameda;

THEREFORE, the County Health Officer hereby declares a renewal of a local health emergency originally declared on March 1st, 2020 throughout the County of Alameda;

IT IS SO DECLARED, on this date: March 5th, 2020.

BY:



Name: Dr. Erica Pan

Title: Interim Health Officer

Public Health Department, County of Alameda



Consent Item 5

TO: East Bay Community Energy Board of Directors
FROM: Nick Chaset, Chief Executive Officer
SUBJECT: Contracts Entered Into
DATE: December 15, 2021

RECOMMENDATION

Accept the CEO's report on contracts that EBCE has entered, as required by the Administrative Procurement Policy. **Items executed or received between November 13 and December 8, 2021;**

C-2021-114 Hexa Executive Search (Orange, New Jersey) Consulting Services Agreement for leadership recruitment and talent acquisition services through June 30, 2022 with total compensation not to exceed \$100,000.

C-2021-115 Oliver Black (San Francisco, CA) Artist Contract for one or maybe two custom "wood block" print pieces, with total compensation not to exceed \$3,500.

C-2021-116 City of Berkeley First Amendment to Kitchen Electrification Grant, extends the termination date to December 31, 2022.

C-2021-117 S & P Global Ratings Agreement for Rating Evaluation Service, fees for these services will be \$30,000, with additional fees for subsequent hypothetical scenarios assessed at \$5,000 when presented after the first Rating Evaluation Committee.

C-2021-118 Energy GPS (Portland, OR) Consulting Services Agreement for energy market consulting through June 30, 2022 with total compensation not to exceed \$25,000.

C-2021-119 Chabot Space & Science Center Rental Agreement for December 6 meeting an event for an amount not to exceed \$8,000.

The following items are all related to the purchase of the 251 8th Street, Oakland Office Building;

C-2021-120 Chicago Title Company - Buyers Settlement Agreement

C-2021-121 Chicago Title Company - Executed Settlement Statement

C-2021-122 Official Records of Alameda County - 2021307160 Grant Deed

C-2021-123 360 Ventures - Tenant Notice Letter

C-2021-124 360 Ventures - Assignment of Service Contracts, Warranties, and Intangible Properties

C-2021-125 City of Oakland - Advisory of the City of Oakland Point of Sale Sidewalk Ordinance

C-2021-126 East Bay Municipal Utility District - Compliance Certificate for Private Sewer Lateral

C-2021-127 JCP LGS Hazard Disclosures - NHD Report

C-2021-128 360 Ventures - Certification of Non-Foreign Status

C-2021-129 360 Ventures - Real Estate Withholding Statement



Staff Report Item 6

TO: East Bay Community Energy Board of Directors

FROM: Eryn Kim, Energy Fellow & Beckie Menten, Program Manager, Building Electrification and Energy Efficiency

SUBJECT: Induction Cooktop Lending Program Agreement with Acterra

DATE: December 15, 2021

Recommendation

Adopt a Resolution authorizing the CEO to negotiate and a Consulting Services Agreement with Acterra to administer an induction cooktop lending program (ICLP) for EBCE's residential customers, with total compensation not to exceed \$135,000 through December 31, 2022.

Background and Discussion

Adoption of this Resolution will allow EBCE to contract with Acterra to administer an induction cooktop lending program which will positively support EBCE's organizational goals—including supporting and meeting California's building decarbonization objectives—by transitioning buildings from natural gas to exclusively electricity, in the EBCE's service area.

Building electrification is the most cost-effective way to decarbonize buildings according to studies conducted and commissioned by the California Energy Commission (CEC). In pursuit of state-wide building decarbonization goals, EBCE was formed as a community choice aggregation agency (CCA) on December 1, 2016, and has since offered carbon-free energy for customers in its service territory.

EBCE is committed to the reduction of energy-related greenhouse gas emissions and the consumption of natural gas in the built environment, which contributes to an

increasingly large percentage of overall energy-related greenhouse gas emission. Many of EBCE's customers remain unaware of the potential benefits of cooking with induction technology using electricity relative to natural gas. Such benefits include improved indoor air quality—a key factor in respiratory health—by eliminating harmful gas by-products and particulate emissions from natural gas combustion, as well as long-term financial savings from better electricity rates by fully electrifying homes.

The objective of this induction cooktop lending program with Acterra is to make induction cooktops more accessible to EBCE's customers, with a broader goal of encouraging full home electrification that will result in long-term financial savings and health benefits for EBCE's customers. EBCE customers may be more likely to purchase induction cooktops and invest in fully electric kitchen appliances and buildings, if given the opportunity to try induction cooking firsthand.

EBCE previously engaged in induction cooktop lending by providing cities within EBCE's jurisdiction with induction cooking kits, with minimal accessory support, and the lending program was entirely promoted, operated, and maintained by the cities. This initial engagement with the cities has been well received and helped EBCE expand its brand recognition, while providing useful information in understanding and confirming the public demand for induction cooktop lending program. EBCE learned the following from the initial lending programs: size and waiting period of existing programs; need for the program to cover the entirety of EBCE's service territory; and the potential to leverage the lending program for EBCE's marketing, education, and outreach activities. EBCE now desires to work with a 3rd party Vendor, Acterra, to expand the induction cooktop lending program and expand EBCE's marketing, education, and outreach efforts.

EBCE has identified Acterra to administer an induction cooktop lending program, including marketing and outreach, to ensure customers in all of EBCE's service area can experience the benefits of induction cooking. Acterra is a 501(c)(3) non-profit organization located in Palo Alto with extensive experience in building electrification and energy efficiency marketing, education, and outreach, including induction cooktop lending, as well as an established network of volunteers, experts, and community members around the Bay area, from their past activities.

Acterra was selected as EBCE's 3rd party induction cooktop lending program Vendor, through a competitive selection process that involved a rubric-based scoring, among two submissions inclusive of Acterra's that were received by EBCE by the October 1, 2021 deadline in response to the Request for Proposal issued by EBCE on August 30, 2021. From this process, Acterra was selected as EBCE's 3rd party Vendor due to: close

alignment of Acterra’s proposal to EBCE’s organizational goals; Acterra’s expertise, network, and reach that will allow EBCE to expand its marketing, education, and outreach objectives; and a clear, detailed outline—both breadth and depth—in response to the instructions as stated in the Request for Proposal.

EBCE will leverage Acterra’s experience, network, and reach to expand EBCE’s brand in the East Bay, while promoting building decarbonization through electrification, using induction cooking as a starting point. EBCE, Acterra, and any other relevant program partners will meet monthly and as-needed to collaborate and coordinate program activities.

Acterra will provide the following services

- Procuring, distributing, and maintaining the induction cooktop lending kits throughout the EBCE service area’s lending partners and distribution hubs;
- Coordinated marketing, education, and outreach for induction lending program via social media, website, videos, demonstrations, event tabling, printed collaterals, and other mediums;
- Collecting, tracking, and reporting to EBCE program performance and analytic metrics, including but not limited to, pre and post participation surveys, customer lending patterns, locations, frequencies, and other relevant information, to help assess and address challenges;
- Periodically incorporate new learnings from collected performance and analytic metrics, and adjust the program as needed to meet or exceed program objectives.

Fiscal Impact

All program costs will be funded through budgets already authorized for this fiscal year.

Attachment

1. Resolution authorizing the CEO to negotiate and execute a Consulting Services Agreement with Acterra

RESOLUTION NO. __

A RESOLUTION OF THE BOARD OF DIRECTORS

OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO NEGOTIATE AND EXECUTE A CONSULTING SERVICES AGREEMENT WITH ACTERRA TO ADMINISTER AN INDUCTION COOKTOP LENDING PROGRAM

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 EBCE is committed to the reduction of energy-related greenhouse gas emissions and the consumption of natural gas in the built environment contributes to an increasingly large percentage of overall energy-related greenhouse gas emissions; and

WHEREAS many EBCE customers remain unaware of the potential benefits of cooking with induction technology relative to gas cooking technology and therefore are slow to adopt not only induction cooking but fully-electric residential buildings; and

WHEREAS EBCE and its customers would benefit from an opportunity to try induction cooking firsthand and may be more willing to adopt fully-electric buildings if hands-on induction cooking opportunities are made available; and

WHEREAS EBCE desires to offer an induction lending program to EBCE’s customers and desires to conduct marketing and outreach, to ensure the benefits of induction reach beyond program participants to the broader EBCE community; and

WHEREAS EBCE has identified Acterra, through a competitive selection process among the submissions received in response to a Request for Proposal, as the most qualified vendor to administer EBCE’s induction cooktop lending program.

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

Section 1. Authorize CEO to negotiate and execute a Consulting Services Agreement with Acterra to administer an induction cooktop lending program for EBCE’s residential customers, with total compensation not to exceed \$135,000 through December 31, 2022.

ADOPTED AND APPROVED this 15th day of December, 2021.

Dianne Martinez, Chair

ATTEST:

Clerk of the Board



Consent Item 7

TO: East Bay Community Energy Board of Directors

FROM: Melissa Brandt, VP of Public Policy and Deputy General Counsel

SUBJECT: Third Amendment to the Weideman Group CSA for Legislative Advocacy and Advisory Services

DATE: December 15, 2021

Recommendation

Adopt a Resolution authorizing East Bay Community Energy's (EBCE's) CEO to negotiate and execute a Third Amendment to the Consulting Services Agreement with Weideman Group, Inc. to extend the term through December 31, 2022, and add additional compensation in the amount of \$125,000, for a total not-to-exceed amount of \$500,000.

Background and Discussion

On January 17, 2018, EBCE's Board approved the selection of Weideman Group to provide legislative advocacy and advisory services to EBCE throughout 2018. On January 16, 2019, EBCE entered into a new one-year Consulting Services Agreement (CSA) with Weideman Group. On January 22, 2020, EBCE executed a First Amendment to the January 16, 2019 CSA with Weideman Group. The First Amendment added \$125,000 to the not-to-exceed amount for a total amount not to exceed \$250,000 and extended the term for one year through December 31, 2020. On January 1, 2021, EBCE executed a Second Amendment which added another \$125,000 to the not-to-exceed amount for a total amount not to exceed \$375,000 and extended the term for one additional year through December 31, 2021. For the past four years, Weideman Group has represented EBCE with legislators and their staff in Sacramento, in close coordination with the Public Policy Department and in accordance with EBCE's Board's adopted positions on legislative bills.

Weideman Group has over 30 years of experience representing entities seeking to navigate California's complex policymaking landscape. Mark Weideman, Principal and

Founder will continue to serve as EBCE's chief lobbyist and strategist. Weideman Group professionals have represented both public and private entities in energy and utility matters before the California Legislature, the Governor's Office, the California Energy Commission, the California Public Utilities Commission, the California Environmental Protection Agency, and the California Air Resources Board, among others. Weideman Group also has strong relationships with elected officials, especially the Bay Area delegation.

Before making its recommendation for 2022, EBCE staff reached out to legislators on Weideman Group's provision of service for EBCE and received very positive feedback.

In 2021, Weideman Group facilitated countless remote meetings with legislators, as well as in-person meetings when possible. Weideman Group supported EBCE in developing relationships with legislators and their staff, as well as with administration officials and other key strategic partners. Weideman Group lobbied on behalf of EBCE on key bills such as AB 33 (Ting), AB 427 (Bauer-Kahan), AB 525 (Chiu), AB 843 (Aguiar-Curry), AB 1139 (Gonzalez), SB 68 (Becker), SB 99 (Dodd), SB 551 (Stern), SB 589 (Hueso), and SB 612 (Portantino), among others.

EBCE seeks continued assistance from Weideman Group for legislative advocacy and advisory services in 2022, both to represent EBCE's views on bills in the new legislative cycle and to provide legislative advocacy and advice around any bills that EBCE may choose to sponsor.

Staff recommends authorizing EBCE's CEO to further amend the CSA with Weideman Group to extend the term for one year for the duration of 2022 with an additional \$125,000 in compensation.

Fiscal Impact

This Third Amendment will result in an additional not-to-exceed \$125,000 spend in calendar year 2022. Legislative Advocacy and Advisory Services are included in the current fiscal year budget at this level.

Attachments

- A. Resolution Authorizing the CEO to Negotiate and Execute a Third Amendment to the Consulting Services Agreement with Weideman Group, Inc.

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO NEGOTIATE AND EXECUTE A THIRD AMENDMENT TO THE CONSULTING SERVICES AGREEMENT WITH WEIDEMAN GROUP, INC.

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 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, Castro Valley, Dublin, Emeryville, Fremont, Hayward, Livermore, Oakland, San Leandro, and Union City, to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs in all 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, On January 17, 2018, EBCE’s Board approved the selection of Weideman Group to provide legislative advocacy and advisory services to EBCE through December 31, 2018,

WHEREAS, On January 16, 2019, the Board approved extending Weideman Group’s services by entering into a new one-year Consulting Services Agreement (“CSA”) with Weideman Group. On January 22, 2020 EBCE’s Board approved the First Amendment extending Weideman Group’s services through December 31, 2020 and increasing the not-to-exceed amount by \$125,000 resulting in a total not-to-exceed amount of \$250,000,

WHEREAS, On December 16, 2020, EBCE’s Board approved the Second Amendment extending Weideman Group’s services through December 31, 2021 and increasing the not-to-exceed amount by \$125,000 resulting in a total not-to exceed amount of \$375,000,

WHEREAS, Legislative advocacy and advisory services are included in the current fiscal year budget at \$125,000,

WHEREAS, In 2019, 2020, and 2021, Weideman Group facilitated countless meetings in Sacramento, in district and remotely, and supported EBCE in developing relationships with legislators and their staff, as well as with administration officials and other key strategic partners. In 2022, EBCE would benefit from continued assistance from Weideman Group for legislative advocacy and advisory services, both to represent EBCE’s views on bills in the new legislative cycle as well as to provide legislative advocacy and advice around any bills that EBCE may choose to sponsor.

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

Section 1. EBCE's Board of Directors hereby authorizes EBCE's CEO to negotiate and execute a Third Amendment to the CSA with Weideman Group to increase the not-to-exceed amount by \$125,000 for a total amount not-to-exceed \$500,000 and to extend the term through December 31, 2022.

ADOPTED AND APPROVED this 15th day of December, 2021.

Dianne Martinez, Chair

ATTEST:

Clerk of the Board



Staff Report Consent Item 8

TO: East Bay Community Energy Board of Directors

FROM: Annie Henderson, VP - Marketing and Account Services

SUBJECT: Revisions to Service Terms and Conditions to Support Product Changes in January 2022

DATE: December 15, 2021

Recommendation

Receive an update on revisions made to the Service Terms and Conditions to support the product changes in January 2022 related to the closure of Brilliant 100 and default product changes to Renewable 100 service

Background and Discussion

On October 21, 2020, the board voted to offer the Brilliant 100 product until January 31, 2021 at price parity to the standard PG&E rate, with a renewable energy content equivalent to the current Renewable Portfolio Standard, and with the remaining power being supplied by large hydro-electricity for a total of 100% carbon free power. Additionally, the board authorized the Chief Executive Officer to take any necessary actions to implement Resolution R-2020-32 (attached).

Subsequently, on November 18, 2020, the board voted to maintain Brilliant 100 cost at parity with PG&E for 2021, not enroll new customers with the exception of new communities Newark, Pleasanton and Tracy, and close Brilliant 100 effective January 1, 2022. The presentation made at the November meeting is attached along with the meeting notes showing the board's discussion and motion on the item.

Furthermore, on March 17, 2021, the board approved the request from the city of Dublin to change the default product for residential customers - except those on CARE, FERA, or medical baseline allowance - from Bright Choice to Renewable 100

and directed the EBCE Chief Executive Officer or his/her designee to take any and all necessary actions to change the default rate product, per Resolution R-2021-9 attached.

With the closure of Brilliant 100 in January 2022, cities with this service as their default had to choose if their local customers would default to Bright Choice or Renewable 100. The cities of Albany, Hayward, Pleasanton, and Piedmont each had a at least one customer class defaulted onto Brilliant 100. Their new defaults are shown below:

	Current Default			January 2022 Default		
	Residential	Commercial	CARE	Residential	Commercial	CARE
Albany	Brilliant 100	Brilliant 100	Brilliant 100	Renewable 100	Renewable 100	Bright Choice
Hayward	Brilliant 100	Brilliant 100	Bright Choice	Renewable 100	Renewable 100	Bright Choice
Pleasanton	Brilliant 100	Brilliant 100	Bright Choice	Renewable 100	Renewable 100	Bright Choice
Piedmont	Renewable 100	Bright Choice	Brilliant 100	Renewable 100	Bright Choice	Bright Choice

There are several steps to support the closure of Brilliant 100 and transition of customers to Renewable 100. One significant step is the revision of the Service Terms and Conditions, which are included on our website (<https://ebce.org/terms/>) and on new customer notifications.

Staff revised the Service Terms and Conditions to support the changes previously approved by the board. Legal counsel reviewed the changes and determined they were sufficiently within the scope of authorizations from the resolutions and/or are minor clarifying changes. Therefore, the changes have been implemented and this report serves to inform the board of the changes. A version of the Service Terms and Conditions with changes tracked is attached to this report.

Fiscal Impact

There is no fiscal impact to revising the Service Terms and Conditions

Attachments

1. Resolution R-2020-32
2. November 18, 2020 Presentation
3. November 18, 2020 Meeting Minutes
4. Resolution R-2021-9
5. Revisions to Service Terms and Conditions

RESOLUTION NO. R-2020-32

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY TO CONTINUE TO OFFER THE
BRILLIANT 100 PRODUCT UNTIL JANUARY 31, 2021**

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 voted on June 17, 2020 to no longer offer the Brilliant 100 product to any customers after December 31, 2020.

WHEREAS As of October 2020, the Board is still discussing the potential product options to replace the current Brilliant 100 product in 2021.

WHEREAS It is in the best interest of our customers that a decision on potential product options be made with as much relevant information as possible and that customers are given adequate notice of changes to our products.

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

Section 1. The Brilliant 100 product will be offered until January 31, 2021 at price parity to the standard PG&E rate, with a renewable energy content equivalent to the current Renewable Portfolio Standard, and with the remaining power being supplied by large hydro-electricity for a total of 100% carbon free power.

Section 2. The Board hereby authorizes the Chief Executive Officer to take any necessary actions to implement this Resolution.

ADOPTED AND APPROVED this 21st day of October, 2020.

DocuSigned by:
Dan Kalb
499E3E1AB1AC42E...

Dan Kalb, Chair

ATTEST:

DocuSigned by:

Stephanie Cabrera

A5927154EB5B4A3...

Stephanie Cabrera, Clerk of the Board



Staff Report Item 13

TO: East Bay Community Energy Board of Directors
FROM: Nick Chaset, Chief Executive Officer
SUBJECT: Brilliant 100 Options (Action Item)
DATE: November 18, 2020

Recommendation

Decide to change the Brilliant 100 consumer electricity product in one of following way:

- A) Close Brilliant 100 effective February 1, 2021. All current Brilliant 100 customers would be defaulted onto Bright Choice unless the city council/Board of Supervisors have affirmatively voted to default these customers onto another product, or
- B) Set Brilliant 100 cost above PG&E – with specific premium brought to Board of Directors in December 2020. All current Brilliant 100 customers would see these new costs effective February 1, 2021. Under this option Brilliant 100 would continue to be available to all EBCE customers, or
- C) Maintain Brilliant 100 cost at parity with PG&E for 2021, but close Brilliant 100 effective January 1, 2022.

Background and Discussion

At its meeting on June 17, 2020, EBCE's Board voted to close *Brilliant 100* to new accounts beginning July 1, 2020, as one of several budget-related actions. Staff had determined current *Brilliant 100* rates no longer cover the cost of service and would need time to develop alternative courses of action for the Board to consider.

Over the last number of months, EBCE staff have worked to develop three options for how to proceed with Brilliant 100 for 2021 and beyond. The three options are laid out in the attached presentation.

Fiscal Impact

Option C carries a projected fiscal impact of at least \$1.85m.

Attachments

- A. Presentation on New Carbon-free Electricity Product and Brilliant 100 Options



Brilliant 100 Options in 2021

Nick Chaset
November 18, 2020

Overview of Agenda Item

Which of the following changes to Brilliant 100 for 2021 should EBCE make?

- A) Close Brilliant 100 effective February 1, 2021. All current Brilliant 100 customers would be defaulted onto Bright Choice unless the city council/Board of Supervisors have affirmatively voted to default these customers onto another product, or
- B) Set Brilliant 100 cost above PG&E – with specific premium brought to Board of Directors in December 2020. All current Brilliant 100 customers would see these new costs effective February 1, 2021. Under this option Brilliant 100 would continue to be available to all EBCE customers, or
- C) Maintain Brilliant 100 cost at parity with PG&E for 2021, but end B100 effective January 1, 2022

2021 Brilliant 100 Policy

Option A

- Close Brilliant 100 effective February 1, 2021.
- All current Brilliant 100 customers would be defaulted onto Bright Choice unless the city council/Board of Supervisors have affirmatively voted to default these customers onto another product.
- No Fiscal Impact

2021 Brilliant 100 Policy

Option B

- Set Brilliant 100 cost above PG&E – with specific premium brought to Board of Directors in December 2020.
- All current Brilliant 100 customers would see these new costs effective February 1, 2021.
- Under this option Brilliant 100 would continue to be available to all EBCE customers.
- No Fiscal Impact

2021 Brilliant 100 Policy

Option C

- Maintain Brilliant 100 cost at parity with PG&E for 2021 but Brilliant 100 to all customers effective Jan 1, 2022
- Fiscal Impact Detailed

2021 Brilliant 100 Policy

Option C Fiscal Impact Assessment: \$1.85m to serve existing Brilliant 100 in 2021

- Brilliant 100 costs estimated to cost approx. \$2.70/MWh more to procure than Bright Choice:
 - Brilliant 100: $\$14.5 \times 36\% \text{ (RE)} + \$5.0 * 54\% \text{ (Lhyd)} + \$0 * 10\% \text{ (PG\&E Allocation Share)} = \7.92 Adder
 - Bright Choice: $\$12.7 \times 41\% \text{ (RE)} + \$0 * 10\% \text{ (PG\&E Allocation Share)} = \5.21 Adder
 - With energy and overhead costs, Brilliant 100 is 4.6% more expensive than Bright Choice, while only priced at 1% more than Bright Choice. This equates to 3.6% higher Brilliant 100 cost not recovered in rates, which means that 78% of the Brilliant 100 premium should be treated as incremental costs.
- Brilliant 100 projected to create an incremental cost in 2021 of \$1.85m to serve current Brilliant 100 customers
 - Brilliant 100 2021 load projection: 875,000 MWh
 - $\$2.71 * 78\% * 875,000 \text{ MWh} = \1.85 m
- Brilliant 100 incremental costs scale up with each additional MWh, so if new customers or communities join Brilliant 100, costs to EBCE rise. For example, if Dublin/Pleasanton and Berkeley were to opt all accounts onto Brilliant 100 for 2021, that would result in an unfunded increase in procurement costs of \$1,895,400
 - Brilliant 100 Cost Premium (\$2.70) * Unfunded share of Brilliant 100 costs (78%) * Approx Dublin/Berkeley/Pleasanton Load (900,000 MWh) = **\$1.90m**



Draft Minutes

Board of Directors Meeting

Wednesday, November 18, 2020

5:00 pm

<https://us02web.zoom.us/j/87023071843>

Join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 929 205 6099 or
+1 301 715 8592 or 888 475 4499 (Toll Free) or 877 853 5257 (Toll Free)

Webinar ID: 870 2307 1843

Meetings are accessible to people with disabilities. Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the meeting materials, should contact the Clerk of the Board at least 2 working days before the meeting at (510) 736-4981 or cob@ebce.org.

If you have anything that you wish to be distributed to the Board, please email it to the clerk by 5:00 pm the day prior to the meeting.

1. Welcome & Roll Call

Present: Directors: Haggerty (Alameda County), Pilch (Albany), Arreguin (Berkeley) Hernandez (Dublin), Mei (Fremont), Mendall (Hayward), Munro (Livermore), Hannon (Newark), Rood (Piedmont), Hernandez (San Leandro), Arriola (Tracy), Director Patino (Union City), Sutter (Community Advisory), Vice-chair Martinez (Emeryville), and Chair Kalb (Oakland)

Excused: Director Pentin (Pleasanton)

2. Pledge of Allegiance

3. Public Comment

This item is reserved for persons wishing to address the Board on any EBCE-related matters that are not otherwise on this meeting agenda. Public comments on matters listed on the agenda shall be heard at the time the matter is called. As with all public comment, members of the public who wish to address the Board are customarily limited to three minutes per speaker and must complete an electronic [speaker slip](#). The Board Chair may increase or decrease the time allotted to each speaker.

Aleta Dupree shared several electrification and storage ideas that EBCE should consider.

EBCE is committed to protecting our environment and is proud to be a

[Certified California Green Business](#)

Blair Beekman spoke regarding San Jose local energy plans for 2021, sustainability, and public engagement.

Kelly Abru spoke regarding environmental impact reports of rural areas.

Jill ZamEk spoke in opposition of including Nuclear energy in EBCE power mix.

Jessica Tovar spoke in support of EBCE remaining nuclear free and the unanimous decision of Hayward city council for rejecting nuclear in its B100 power mix. J Tovar also spoke against the PCIA calling it the root cause of the financial concerns with CCAs.

Manav Patel requested EBCE to endorse the Bay area's version of the "Clean New Deal."

Jeremiah Pinguelo spoke against including nuclear energy in EBCE's power mix.

Ceyda Durmaz Dogan requested that the Board create a policy prohibiting the inclusion of nuclear energy in EBCE's power mix.

Jane Swanson resides near the Diablo Canyon facility and supported previous comments opposing nuclear energy.

CONSENT AGENDA

4. Approval of Minutes from October 21, 2020

5. Contracts entered into (Informational Item)

6. Second Amendment to the Maher Accountancy CSA

Authorize the CEO to sign the Second Amendment to the Maher Accountancy Contract Service Agreement (CSA) to extend the term of service through December 31, 2021 and increase the not to exceed contract limit by \$210,000.

R-2020-36

Director Arreguin motioned to approve the consent calendar. Director Pilch second the motion which carried 14/0 Excused: Director Pentin (Pleasanton)

REGULAR AGENDA

7. CEO REPORT

- A. Executive Committee Meeting;
- B. Finance, Administration and Procurement Subcommittee Meeting;
- C. Marketing, Regulatory and Legislative Subcommittee Meeting;
- D. Marketing and Account Services Update

The Board Discussed

- Data points presented
- Grant recipients
- Online survey

Kelly Abru suggested EBCE focus on generation and legislation to help increase cleaner energy.

8. Community Advisory Committee Report

Advisory Committee Chair Sutter spoke regarding the CAC metric initiative review with staff to document results of EBCE's stage 1 of the Local Development Plan, track values of LDBP listed metrics and describe how plan principals are being met.

9. Reserve Fund Allocations from 2019-2020 Fiscal Year Net Revenues (Action Item)

Adopt a Resolution to approve the proposed contributions to the reserve funds.

R-2020-37

The Board Discussed Increasing

- Fiscal responsibility
- Credit rating methodology

Aleta Dupree spoke in support of a strong reserve policy.

10. 2019 Power Source Disclosure Annual Report and Power Content Label (Action Item)

Adopt a Resolution to accept the 2019 Power Source Disclosure Program Annual Report (PSDR) and the 2019 Power Content Label (PCL).

Presented

R-2020-38

The Board Discussed Increasing

- Energy sources
- PG&E power content
- Bundled purchases

Aleta Dupree spoke regarding the EBCE power portfolio.

Mike Fredrich spoke regarding Renewable 100 and how energy is used in off hours.

Blair Beekman thanked previous speakers on their comments and spoke regarding sustainable ideas.

Director Marquez motioned to accept the 2019 Power Source Disclosure Annual Report and Power Content Label. Director Hernandez (Dublin) seconded the motion which carried 13/0; Excused: Directors Pentin and Haggerty

11. East Bay Community Energy 2019 Emissions Factor (Informational Item)

Receive a staff report on East Bay Community Energy's 2019 Bright Choice emissions factor.

Presented

12. Power Procurement Project Update (Informational Item)

Update on three renewable energy projects:

- A. Clearway - Rosamond Central Solar Energy Project;
- B. Alameda Summit Wind Farm (Alameda County); and
- C. Mulqueeney Wind Project (Alameda County).

Presented

Vaugh Wolfe spoke regarding energy storage concerns.

13. Brilliant 100 Options (Action Item)

Decide to change the Brilliant 100 consumer electricity product in one of following way:

- A. Close Brilliant 100 effective February 1, 2021. All current Brilliant 100 customers would be defaulted onto Bright Choice unless the city council/Board of Supervisors have affirmatively voted to default these customers onto another product, or
- B. Set Brilliant 100 cost above PG&E - with specific premium brought to Board of Directors in December 2020. All current Brilliant 100 customers would see these new costs effective February 1, 2021. Under this option Brilliant 100 would continue to be available to all EBCE customers, or
- C. Maintain Brilliant 100 cost at parity with PG&E for 2021, but close Brilliant 100 effective January 1, 2022.

The Board Discussed

- Member city municipal account options
- Potential to create a muni only product
- Transition from product
- Increasing GHG free and renewable content

Barbara Stebbins spoke regarding previous critique of the B100 product due to current concerns with mix, subsidizing product to support city climate action plans.

Aleta Dupree spoke against subsidizing product and suggesting more renewables be added to the grid.

Glenn Kirby spoke regarding concerns with customer rate sensitivity, energy market and suggested ways to subsidize current product.

Jessica Tovar spoke in support of subsidizing municipal accounts what wanted to continue to use B100 products subsidy for cities that wanted to continue using B100

Cynthia Landry spoke regarding SEIU resolution to oppose nuclear energy in EBCE's portfolio, in support of option C, cities who want to choose option A, and subsidizing current muni customers.

Director Arreguin motioned to approve option C - Maintain Brilliant 100 cost at parity with PG&E for 2021, but close Brilliant 100 effective January 1, 2022. Director Hernandez (Dublin) seconded the motion.

Vice-Chair Martinez requested a friendly amendment to not enroll new customers with the exception of new communities Newark, Pleasanton and Tracy.

Motion maker and seconder accepted the amendment

Director Arreguin motioned to approve option C - Maintain Brilliant 100 cost at parity with PG&E for 2021, allow enrollment of new communities, Newark, Pleasanton, and Tracy, but close Brilliant 100 effective January 1, 2022. Director Hernandez (Dublin) seconded the motion which carried 12/0; Abstained: Chair Kalb; Excused: Directors Haggerty and Pentin

14. Aramis RA Solar & Storage Contract Approval (Action Item)

Adopt a Resolution authorizing the CEO to execute a 10-year local Resource Adequacy purchase from a 100MW Alameda County Solar and Storage Project (“Aramis Project”) with Intersect as the developer.

The Aramis project is expected to begin to provide local Greater Bay Area Resource Adequacy to EBCE starting in April 2024 through December 2033 for a period of 10 years. The quantity will range from 14MW to 23MW and average approximately 20MW.

R-2020-39

Director Haggerty recused himself from this item and dropped off the call.

Director Munro motioned to adopt a resolution authorizing the CEO to execute a 10-year local Resource Adequacy purchase from a 100MW Alameda County Solar and Storage Project (“Aramis Project”) with Intersect. Vice-Chair Martinez seconded the motion which carried 12/0; Abstained: Pilch; Excused: Directors Haggerty and Pentin.

30 members of the public spoke in support or opposition of the project citing the following benefits and concerns:

- Land use concerns
- Environmental Impact Report (EIR) results
- Union Labor support
- Local generation project
- Lack of engagement with consulting agencies
- Livestock concerns
- Increase in renewable content
- Local job creation
- Other projects by the developer and ownership changes
- Workforce training
- Decarbonization
- Environmental groups supporting project
- Project site design and enhancements

15. Board Member and Staff Announcements including requests to place items on future Board Agendas

Chair Kalb acknowledged upcoming Board changes.

Director Pilch spoke regarding his time as an EBCE Director, thanked the Board and Staff for the experience and requested an EBCE branded mask.

16. Adjourned

RESOLUTION NO. R-2021-9**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY DIRECTING STAFF TO MAKE
NECESSARY ARRANGEMENTS TO CHANGE THE DEFAULT RATE PRODUCT TO
RENEWABLE 100 FOR CERTAIN RESIDENTIAL CUSTOMERS IN THE CITY OF DUBLIN**

WHEREAS, the East Bay Community Energy Authority (“EBCE”) was formed 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, Castro Valley, Dublin, Emeryville, Fremont, Hayward, Livermore, Oakland, San Leandro, and Union City, to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs in all 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, in 2018, the Board of Directors approved three product offerings—a product called Bright Choice offered at a discounted price, a product called Brilliant 100 that is 100% carbon-free at price parity with PG&E rates, and a 100% renewable energy product called Renewable 100 offered at a premium cost.

WHEREAS, in 2020, the Board of Directors voted to eliminate the Brilliant 100 product as of 2022.

WHEREAS, on September 15, 2020, the City Council of the City of Dublin adopted the *City of Dublin Climate Action Plan 2030 and Beyond*, which includes a goal of reducing greenhouse gas emissions by 40% below 1990 levels by 2030 to align with California Senate Bill 32 and to put the City on a path to reach carbon neutrality by 2045.

WHEREAS, the City of Dublin’s *Climate Action Plan 2030 and Beyond* identifies renewable and carbon-free electricity as the biggest opportunity to reduce greenhouse gas emissions within the City of Dublin.

WHEREAS, on January 12, 2021, the Dublin City Council adopted a Resolution requesting that the EBCE Board of Directors change the default product for most of its residential customers to Renewable 100.

WHEREAS, as part of the Resolution adopted by the Dublin City Council on January 12, 2021, the City Council asked that residential accounts participating in the California Alternate Rates for Energy (CARE), Family Electric Rate Assistance (FERA), and Medical Baseline Allowance programs remain on the current default Bright Choice service, which is offered at a slight discount compared to Pacific Gas & Electric’s (PG&E) standard product.

WHEREAS, residential customers in the City of Dublin retain the option to “opt down” to a service with a lower percentage of carbon-free electricity or to “opt out” to PG&E’s service at any time.

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

Section 1. The Board of Directors hereby directs the EBCE Chief Executive Officer or his/her designee to take any and all necessary actions to change the default rate product for residential accounts with the City of Dublin to Renewable 100, excluding residential accounts participating in CARE, FERA, and the Medical Baseline Allowance programs, which will remain on Bright Choice service.

Section 2. The change to the City of Dublin’s default rate product as described herein shall comply with the Default Rate Product Change Policy as approved by the Board.

ADOPTED AND APPROVED this 17th day of March 2021.

DocuSigned by:

Dan Kalb

499E3E1AB1AC42E...

Dan Kalb, Chair

ATTEST:

DocuSigned by:

Adrian Bankhead

1E6D6702A660459...

Adrian Bankhead, Assistant Clerk of the Board

Revisions to
Service Terms and Conditions

Enrollment and Service Options

East Bay Community Energy (EBCE) is the default electric provider serving Alameda County (except the City of Alameda) and the city of Tracy.

Bright Choice

Most accounts within EBCE’s coverage area are automatically enrolled in EBCE’s Bright Choice service, which is powered by at least 5% more renewable energy than Pacific Gas and Electric’s (PG&E) power content forecast each year and offered at a 1% discount to the corresponding PG&E rate. Customers may request to opt up to Renewable 100 or opt out and return to PG&E bundled service at any time, subject to the opt out guidelines described below. Bright Choice electric generation rates are set below PG&E electric generation rates, inclusive of utility exit fees. More information about rates can be found at ebce.org/rates.

Renewable 100

Certain customers are defaulted to EBCE’s 100% renewable energy service, Renewable 100, offered at \$0.01/kWh above the PG&E rate inclusive of utility exit fees. Renewable 100 customers may choose to opt down to Bright Choice service at no cost. Changes in a service option are effective as of the customer’s next billing cycle.

Default Service by Jurisdiction, Customer Class, and Program Participation

In an effort to support sustainability goals, certain cities have chosen to enroll customers in their jurisdictions in different services based on customer class and program participation, as indicated in the table below. Customers are free to change their service option at any time, which will become effective as of the customer’s next billing cycle.

Default Enrollment Service as of January 2022*

Jurisdiction	Commercial Customers	Residential Customers	Customers on CARE, FERA, Medical Baseline
Albany	Renewable 100	Renewable 100	Bright Choice
Dublin	Bright Choice	Renewable 100	Bright Choice

Hayward	Renewable 100	Renewable 100	Bright Choice
Piedmont	Bright Choice	Renewable 100	Bright Choice
Pleasanton	Renewable 100	Renewable 100	Bright Choice
All other jurisdictions**	Bright Choice	Bright Choice	Bright Choice

*New customers establishing electric service in the cities of Albany, Hayward, and Pleasanton as of November 1, 2021 will be started on Renewable 100 as their default service, unless participating in CARE, FERA, or Medical Baseline.

**Berkeley, Emeryville, Fremont, Livermore, Newark, Oakland, San Leandro, Tracy, Union City, and County of Alameda

Rates, Fees and Programs

EBCE’s electric generation rates are managed to provide greener electricity to our community at competitive rates. Any future rate changes will be adopted at duly noticed public meetings of the EBCE Board. You can view EBCE rates online at ebce.org/rates, or call 1-833-699-EBCE (1-833-699-3223) for more information. Rates and cost comparisons may change over time.

As an EBCE customer, PG&E charges you a monthly Power Charge Indifference Adjustment (PCIA) and Franchise Fee Surcharge. EBCE has accounted for these additional exit fees and charges in its rate setting process. Please contact PG&E for more information about these charges.

Financial assistance programs including CARE (California Alternate Rates for Energy), FERA (Family Electric Rate Assistance), and Medical Baseline Allowance remain the same with EBCE. If you are enrolled in any of these programs with PG&E, they continue to apply to you as an EBCE customer.

Billing

As an EBCE customer, you continue to receive a single monthly bill from PG&E that includes all electricity-related charges, including EBCE’s electric generation charges. EBCE generation charges are not duplicate or extra fees. You make a single monthly payment to PG&E, and PG&E forwards your payments for electric generation to EBCE. PG&E continues to charge for gas services, transmission, distribution, public goods programs and other non-generation charges at the same rates it charges customers who do not receive EBCE service.

Choosing PG&E (Opt Out)

You may opt out of EBCE electric generation service and choose PG&E at any time by calling 1-833-699-EBCE (1-833-699-3223) or by completing the Choose PG&E form at ebce.org/optout. You will need your PG&E account information to begin the opt-out process.

There is no fee to choose PG&E before enrollment or in the first 60 days of receiving EBCE service. If you choose PG&E 60 or more days after EBCE service begins, you will be charged a one-time termination fee of \$5 per residential account or \$25 per commercial account. These fees are waived for customers in Newark, Pleasanton, and Tracy until April 2022. All

customers are also subject to PG&E's terms and conditions of service, which prohibit you from returning to EBCE for a full year after your opt-out date.

If returning to PG&E generation service after receiving EBCE service for more than 60 days, PG&E requires that you choose one of the following options:

Option 1: Return to PG&E generation service at the end of the current billing cycle. You will be billed at PG&E's transitional rates for a six-month period, and PG&E's standard bundled electricity rates thereafter.

Option 2: Give six month's advance notice of your intent to return to PG&E generation service. At the end of the six-month notice period, you will be returned to PG&E service and billed PG&E's standard bundled electricity rates.

Accounts of customers who have requested to opt out and choose PG&E will be transferred on the next day their electric meter is read. Accounts cannot be transferred in the middle of a billing cycle. Your request to choose PG&E must be received at least 5 business days prior to your meter read date in order to switch service to PG&E before your next billing cycle begins. All other requests to choose PG&E will be processed on the subsequent meter read date. If you opt out and choose PG&E or otherwise stop receiving service from EBCE, you will be charged for all EBCE electricity used before ending EBCE electric service.

Failure to Pay

If you fail to pay your bill, EBCE may transfer your account to PG&E upon 30 days' written notice for commercial customers and 60 days' written notice for residential customers. If your account is transferred, you will be required to pay the opt out fees described above. This provision is suspended until at least December 31, 2021 and does not apply to any customer that is participating in a payment plan.

Customer Confidentiality

EBCE is committed to protecting customer privacy. EBCE's policy on customer confidentiality can be found at ebce.org/confidentiality or by calling 1-833-699-EBCE (1-833-699-3223).



Consent Item 9

TO: East Bay Community Energy Board of Directors

FROM: Jason Bartlett, Finance Manager

SUBJECT: Consulting Services Agreement with Maher Accountancy (Consent)

DATE: December 15, 2021

Recommendation

Adopt a Resolution authorizing East Bay Community Clean Energy's (EBCE's) CEO or Treasurer to negotiate and execute a new Consulting Services Agreement (CSA) with Maher Accountancy with a one-year term from January 1, 2022, through December 31, 2022, for an amount not to exceed \$255,000, and authorize EBCE's CEO or Treasurer to renew this contract for up to three subsequent annual periods with fees not increasing by more than 4-6% annually. If fully exercised this would total a four-year term.

Background and Discussion

EBCE uses an independent accountant to support ongoing financial operations. The accountant is crucial to supporting all of EBCE's financial functions, including invoicing, payments, reporting, and the audit process. EBCE has worked with Maher Accountancy since June 1, 2018. Prior to which, EBCE received accounting services from the Alameda County Finance Department.

In October 2021, EBCE staff issued a competitive solicitation for accounting services. Upon completion of the process, staff recommend that EBCE continue to use Maher Accountancy given their extensive experience in California and specifically their experience working with Community Choice Aggregations (CCAs).

During their contracted period, Maher Accountancy has assisted EBCE with four audits and has performed exceptionally well in managing EBCE's books and ledgers. Maher Accountancy's familiarity within the CCA space is unparalleled as they currently provide accounting services for eight CCAs, including Clean Power Alliance, Marin

Clean Energy, Monterey Bay Community Power, Peninsula Clean Energy, Silicon Valley Clean Energy, and Sonoma Clean Power. Over Maher Accountancy's history, they have served ten CCAs in total in some capacity.

For the 2022 calendar year, EBCE has negotiated a contract price with Maher Accountancy for \$18,500 per month. This is an increase to the previous rate of \$16,250 due to expanding additional services to support the significant volume of invoice administration and review, and a 4.6% increase due to inflation/rising costs. This new rate will place EBCE in the "middle of the pack" of what Maher Accountancy charges other CCAs for their services, 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 \$16,000 to provide accounting assistance with EBCE's annual audit. Anticipated costs are expected to total \$238,000 and staff would like to include \$17,000 for contingency costs. For subsequent years the not to exceed amount is expected to rise by approximately 4-6%.

EBCE wishes to continue to benefit from the expertise of Maher Accountancy and seeks Board approval to negotiate and execute a new CSA for a one year term, from January 1, 2022, through December 31, 2022, at an overall not to exceed amount of \$255,000 and the option to renew that term for up to three subsequent years

Fiscal Impact

The CSA will provide for a monthly fixed rate of \$18,500 through the calendar year, which is \$222,000. An additional charge of \$16,000 is included to provide accounting services to assist with EBCE's annual audit for the 2021-2022 fiscal year. Together, the total amount for the term of January 1, 2022 through December 31, 2022 is \$238,000 plus \$17,000 for contingency, totaling a not to exceed amount of \$255,000.

Attachments

- A. Resolution Authorizing the CEO or Treasurer to Negotiate and Execute a Consulting Services Agreement with Maher Accountancy

RESOLUTION NO. __

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO OR TREASURER TO EXECUTE A 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, EBCE’s Board of Directors delegated authority to EBCE’s CEO to select an accounting firm in April 2018, after EBCE solicited bids,

WHEREAS, EBCE entered into a Consulting Services Agreement (“CSA”) 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 extending the CSA term by one year from January 1, 2020 through December 31, 2020,

WHEREAS, EBCE executed a Second Amendment to the July 1, 2019 Consulting Services Agreement with Maher Accountancy extending the CSA term by one year from January 1, 2021 through December 31, 2021,

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 at least December 31, 2022, with the option to extend for three annual periods.

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

Section 1. EBCE’s Board of Directors hereby authorizes EBCE’s CEO or Treasurer to negotiate and execute a new Consulting Services Agreement with Maher

Accountancy for accounting and audit support services from January 1, 2022 through December 31, 2022 with total compensation not to exceed an amount of \$255,000.

Section 2. EBCE's Board further authorizes EBCE's CEO or Treasurer to renew the January 1, 2022 CSA for up to three subsequent annual periods with fees not increasing by more than 4-6% annually.

ADOPTED AND APPROVED this 15th day of December 2021.

Diane Martinez, Chair

ATTEST:

Clerk of the Board



Consent Item 10

TO: East Bay Community Energy Board of Directors

FROM: Inder Khalsa, EBCE General Counsel

SUBJECT: Adopt Resolution to Adopt a Revised Conflict of Interest Code Based on Feedback from the FPPC

DATE: December 15, 2021

Recommendation

Adopt Resolution Adopting Amended Conflict of Interest Code clarifying that certain specified positions (Board of Directors and Treasurer) must file a Form 700 under Government Code Section 87200.

Background and Discussion

Shortly after the formation of EBCE, the Board of Directors adopted a Conflict of Interest Code as required by the Political Reform Act (Government Code Section 81000, et seq.). The Code lists the positions within EBCE that are required to file statements of economic interests (Form 700). The Code was amended in January 2018, November 2018, and October 2020 to add new positions.

Since the addition of the City of Tracy in San Joaquin County in March 2020, the EBCE is now a multi-county agency under the Political Reform Act. The California Fair Political Practices Commission (FPPC) is now the EBCE's "code-reviewing body" which must approve the EBCE's Conflict of Interest Code pursuant to Government Code Section 87303.

After the last amendment in 2020, EBCE submitted its amended code to the FPPC. The FPPC reviewed the code and conferred with staff. The FPPC suggested that EBCE's code specify that members of the Board of Directors and the Treasurer likely meet the requirement of Government Code Section 87200, which states that "public officials who manage public investments" are subject to the Political Reform Act under statute (as opposed to the agency's conflict interest of code) and therefore must disclose all financial interests relevant to the agency in their Form 700 filings. The FPPC suggested

that the EBCE adopt a revised conflict of interest code clarifying that these positions are subject to this heightened standard.

Practically speaking, this clarification does not have a significant impact on the EBCE. Members of the Board of Directors are already Government Code Section 87200 filers for their respective member agencies, so they are already disclosing all financial interests as required by statute. In most cases, Board Members can simply file the Form 700 they are using for their City or County with the EBCE in order to meet this requirement. (Please note that since the EBCE's jurisdiction extends beyond that of any of its member agencies, board members should be careful to disclose any real property interests outside their city/county jurisdiction but within EBCE's jurisdiction.)

Likewise, we have also advised that the Treasurer (a position currently held by Howard Chang, COO) should be treated as a public official who manages public investments given his role in managing EBCE funds and investments. Thus, the revised Conflict of Interest Code clarifies that this position will fully disclose all financial interests required by Section 87200.

The FPPC approved EBCE's Conflict of Interest Code with this minor change and it will take effect after a 45 day review period. In the interests of transparency, we are submitting the revised Conflict of Interest Code to the Board for approval although this is not technically required under the law.

The attached Resolution rescinds Resolution Nos. R-2017-1, R-2018-36, and R-2020-29 the prior Conflict of Interest Code and most recent amendments to the Code, and adopts a revised Conflict of Interest Code to specify that the Board of Directors and the Treasurer are subject to the requirements of Government Code Section 87200.

Attachments

- A. Resolution of the Board of Directors of the East Bay Community Energy Authority Approving the Amended Conflict of Interest Code
- B. Conflict of Interest Code for East Bay Community Energy Authority

RESOLUTION NO.

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY
AMENDING THE AUTHORITY'S CONFLICT OF INTEREST CODE**

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 Political Reform Act, Government Code Section 81000, *et seq.*, (the “Political Reform Act”) requires all agencies, including the Authority, to adopt and promulgate a local conflict of interest code.

WHEREAS, the Fair Political Practices Commission (the “FPPC”) has adopted a regulation (2 California Code of Regulations Section 18730), which contains the terms of a standard conflict of interest code and can be incorporated by reference in an agency’s code.

WHEREAS, on January 30, 2017, the Board of Directors of the Authority approved Resolution No. R-2017-1, adopting a Conflict of Interest Code for the Authority. Appendix A to the Conflict of Interest Code lists the employee and consultant positions subject to the Code and establishes economic disclosure categories, and Appendix B identifies the specific financial interests to be reported.

WHEREAS, on January 17, 2018, the Board of Directors approved Resolution No. R-2018-7, amending the Conflict of Interest code to update Appendix A to add new positions and enumerate the appropriate disclosure categories.

WHEREAS, on November 7, 2018, the Board of Directors approved Resolution No. R-2018-36, further amending the Conflict of Interest Code to update Appendix A to add new staff positions and enumerate the appropriate disclosure categories.

WHEREAS, on October 21, 2020, the Board of Directors approved Resolution No. R-2020-29, further amending the Conflict of Interest Code to update Appendix A to add new staff positions and enumerate the appropriate disclosure categories.

WHEREAS, since the EBCE service area has expanded to include the city of Tracy in San Joaquin County, EBCE is now a multi-county agency, and its code reviewing body is the Fair Political Practices Commission.

WHEREAS, the Fair Political Practices Commission reviewed the EBCE's code and approved it with a suggested revision to state that certain designated positions - specifically, the Treasurer and Board and Directors - are subject to Government Code Section 87200.

WHEREAS, the Board of Directors now desires to amend its Conflict of Interest Code to expressly state that the Treasurer and members of the Board of Directors are subject to Government Code Section 87200.

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 rescinds Resolution Nos. R-2017-1, R-2018-36, and R-2020-29, and adopts the attached Conflict of Interest Code, including its Appendices of Designated Positions and Disclosure Categories.

Section 2. All officials and employees required to submit a statement of economic interests pursuant to Appendix A shall file their statements with the Authority's Filing Official. The Filing Official, or his or her designee, shall make and retain a copy of all statements filed with the Authority and forward the originals of such statements to the Fair Political Practices Commission. All retained statements, original or copied, shall be available for public inspection and reproduction (Gov. Code Section 81008).

Section 3. The Board of Directors hereby directs the Secretary of the Board to coordinate the preparation of a revised Conflict of Interest Code in succeeding even-numbered years in accordance with the requirements of Government Code Sections 87306 and 87306.5. Future revisions to the Conflict of Interest Code should reflect changes in employee or official designations. If no revisions to the Code are required, the Authority shall submit a report to the Fair Political Practices Commission no later than October 1st of the same year, stating that amendments to the Authority's Conflict of Interest Code are not required.

ADOPTED AND APPROVED this 15th day of December, 2021.

Dianne Martinez, Chair

ATTEST:

Clerk of the Board

CONFLICT OF INTEREST CODE FOR
East Bay Community Energy Authority
(Revised, Effective December 15, 2021)

The Political Reform Act (Government Code §81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations §18730) that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations §18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict of interest code of the **East Bay Community Energy Authority (Authority)**.

Members and Alternates of the Board of Directors must file their statements of economic interests electronically with the **Fair Political Practices Commission**. All other individuals holding designated positions must file their statements with the **Authority**. All statements must be made available for public inspection and reproduction under Government Code Section 81008.

CONFLICT OF INTEREST CODE FOR
East Bay Community Energy Authority
(Revised, Effective December 15, 2021)

APPENDIX A
Designated Positions

<u>DESIGNATED POSITIONS</u>	<u>DISCLOSURE CATEGORIES</u>
Chief Executive Officer	1, 2, 3, 4
General Counsel	1, 2, 3, 4
Clerk of the Board	1, 2, 3, 4
Vice President of Marketing and Customer Accounts	1, 2, 3, 4
Vice President of Technology and Data Analytics	1, 2, 3, 4
Vice President of Local Development, Electrification, and Innovation	1, 2, 3, 4
Senior Director of Power Resources	1, 2, 3, 4
Senior Director of Public Policy and Deputy General Counsel	1, 2, 3, 4
Human Resources Business Partner	1, 2, 3, 4
Consultants/New Positions	*

*Consultants and new positions shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

With respect to consultants and new positions, the Chief Executive Officer may determine in writing that a particular consultant or new position is hired to perform a range of duties that is limited in scope and thus, is not required to comply with the disclosure requirements described in these categories. Such determination shall include a description of the consultant's or new position's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location of this conflict of interest code.

The following positions are not covered by the code because the positions manage public investments. Individuals holding such positions must file under Government Code Section 87200 and are listed for informational purposes only. Section 87200 requires disclosure of all investments and business positions in business entities, all income, including gifts, loans and travel payments, and real property.

CONFLICT OF INTEREST CODE FOR
East Bay Community Energy Authority
(Revised, Effective December 15, 2021)

- Members and Alternates of the Board of Directors
- Chief Operating Officer/Treasurer

APPENDIX B
Disclosure Categories

Designated positions must report financial interests in accordance with the assigned disclosure categories.

Category 1: Interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the Authority, including any leasehold, beneficial or ownership interest or option to acquire such interest in real property.

Category 2: Investments and business positions in business entities, and income, including receipt of gifts, loans and travel payments, from sources, that provide services, supplies, materials, machinery, or equipment of the type utilized by the Authority.

Category 3: Investments and business positions in business entities, and income, including receipt of gifts, loans and travel payments, from entities which are private electric utility companies doing business within the jurisdiction of the Authority.

Category 4: Investments and business positions in business entities, and income, including receipt of gifts, loans and travel payments, from business entities which are energy consultants, research firms, engineering firms, or entities that design, build, manufacture, sell, distribute or service equipment of the type that is either presently utilized by electric power suppliers or that is used by the federal, state, or local government or by private industry in research designed to refine or develop new methods of electrical power generation.



Staff Report Item 11

TO: East Bay Community Energy Board of Directors

FROM: Nick Chaset, Chief Executive Officer

SUBJECT: CEO Report (Informational Item)

DATE: December 15, 2021

Recommendation

Accept Chief Executive Officer (CEO) report on update items below.

Executive Committee Meeting

No meeting held in November or December.

Finance, Administration and Procurement Subcommittee Meeting

No meeting held in since our last Board of Directors meeting. Next meeting planned for Q1 2022.

Marketing Regulatory and Legislative Subcommittee Meeting

No meeting held in November or December. Attached is an update presentation on the marketing, outreach, and customer communication efforts associated with the service transitions in Albany, Dublin, Hayward, and Pleasanton in January 2022, along with the closure of Brilliant 100 to all customers.

New Staff

Attachment

1. Presentation on EBCE and CC Power Administrative Procurement Policies
2. Presentation on Service Transitions in January 2022

DECEMBER 15, 2021

CC Power and EBCE Procurement Policies



BOD Agenda Packet 2-15-2021
Page 62



Intro to CC Power

- California Community Power (CC Power) is a Joint Powers Authority made of 10 northern and central California CCAs that was formed in early 2021 to support joint action amongst these CCAs to procure large clean energy infrastructure
- East Bay Community Energy joined CC Power as a founding member after the EBCE Board of Directors voted in Jan 2021 to adopt a resolution approving the CC Power JPA agreement
- Since CC Power's formation, the JPA has pursued two projects -Long Duration Energy Storage and Firm Clean Energy Projects. In both instances, EBCE has declined to pursue project participation.

CC Power Project Procurement Policies

For both of CC Power's projects, CC Power has developed a set of project specific conditions related to workforce development, environment and environmental justice

Workforce

- a. Any construction work contracted by parties in furtherance of this agreement, whether or not it is a public work as defined by Labor Code section 1720, shall comply with California prevailing wage provisions applicable to public works projects, including but not limited to those set forth in Labor Code sections 1770, 1771, 1771.1, 1772, 1773, 1773.1, 1774, 1775, 1776, 1777.5, and 1777.6 as they may be amended from time to time.
- b. State a preference, but not a requirement, for a Project Labor Agreement (PLA) allowing up to 5 points in the evaluation ranking process
 - i. Note that adopting a PLA demonstrates meeting the requirements of payment of prevailing wages and use of apprenticeship programs
- c. For projects that do not implement a PLA, require an audit to ensure compliance with payment of prevailing wages and to evaluate use of apprenticeship programs
- d. Encourage the use of local labor

Environmental

- a. All projects must meet the permitting requirements of the appropriate governing authority/authorities
- b. State a preference for projects that avoid sensitive habitat areas

Environmental Justice

- a. Require the developer to attest to not using forced labor in its supply chain which can be demonstrated by signing on to the SEIA pledge
- b. Require developers to identify project benefits to local communities

CC Power Project Procurement Policies

- From the outset of CC Power's formation, stakeholders from labor, environmental justice and local energy have engaged with the CC Power Board to advocate that CC Power should adopt a overarching set of procurement policies that would apply to every CC Power project.
- CC Power empaneled an Ad Hoc Board Committee to review proposals for overarching policies. The Ad Hoc Committee held a series of meetings with stakeholders through the spring, summer and fall.
- The Ad Hoc Committee recommended - and the CC Power Board approved - to not approve a single set of policies to apply to all CC Power Projects. Instead the recommendation was to require that no CC Power member could participate in a project where the project specific procurement policies did not meet the CCAs own internal procurement policies.
- During the meeting to consider a Procurement Policy, labor and environmental justice advocates voiced their opposition to adopting a procurement approach that would apply procurement policy on a project by project basis.

EBCE Policies and Action

- During the meeting to consider CC Power Procurement Policy November 5, 2021, EBCE voted against the recommendation to approve a project by project approach to policy setting. In comments on the item, I noted that I would be open to further dialogue and review of options for policy setting and as such opposed approving any policy at the Nov 2021 meeting.

CC Power Project Procurement Policies

- If in the future, EBCE does elect to participate in a CC Power project, EBCE would ensure that its administrative procurement policies were reflected in any administrative procurement action. These currently include:
 - *preference for businesses located in EBCE service territory (5%)*
 - *preference for union labor (2.5%)*
- EBCE staff is proposing the addition of two more administrative procurement preferences at tonight's meeting
 - *preference for disabled veteran business enterprises (2.5%)*
 - *preference for businesses located in Disadvantaged Communities (2.5%)*
- EBCE currently does not have a board approved set of wholesale energy procurement policies that relate to workforce, environment or environmental justice. Instead, EBCE develops parameters that are applied through each successive wholesale procurement cycle that include preferences for Project Labor Agreements and locally sited projects, requirements to receive local environmental permits and community investment grants into the EBCE service territory. To date, every large scale PPA that EBCE has entered into includes a requirement for a Project Labor Agreement

Brilliant 100 Sunset and Renewable 100 January Transitions



Overview

Focus on cities transitioning service plans in January

CITY	INITIAL DEFAULT SERVICE	2022 DEFAULT SERVICE	TRANSITION DETAILS
Albany***	Residential: Brilliant 100 Commercial: Brilliant 100	Renewable 100 – January 2022* Renewable 100 – January 2022	www.ebce.org/albany
Dublin	Residential: Bright Choice Commercial: Bright Choice	Renewable 100 – January 2022* Bright Choice – January 2022	www.ebce.org/dublin
Hayward***	Residential: Brilliant 100* Commercial: Brilliant 100	Renewable 100 – January 2022* Renewable 100 – January 2022	www.ebce.org/hayward
Pleasanton***	Residential: Brilliant 100* Commercial: Brilliant 100	Renewable 100 – January 2022* Renewable 100 – January 2022	www.ebce.org/pleasanton

* Excludes customers on CARE, FERA, and/or Medical Baseline, who were defaulted to Bright Choice

*** Customers who selected Bright Choice will remain on this service at the time of the 2022 default service transition

Overview of Preparation for January Transition

- Updated functionality of web forms & automated telephone system messages
- Created individual city landing pages and summary page
- Developed content for newsletters, social media posts, and press release
- Refreshed website copy and Terms & Conditions

CITIES GOING GREEN

Transitioning to renewable energy

Albany, Berkeley, Dublin, Hayward, Pleasanton, and San Leandro have taken the bold action of transitioning customers in their jurisdiction onto 100% renewable energy service in 2022

[READ MORE ABOUT THE TRANSITION ▶](#)

Advertising

Print

- Running weekly for 8 weeks in December and January in:
 - East Bay Times - Hayward edition
 - Pleasanton Weekly
 - The Independent

Digital

- Running throughout December and January
- English, Spanish, and Chinese versions

Congratulations Hayward, Pleasanton, Albany, and Dublin for transitioning to **100% solar + wind energy in January '22**



Events

Where	What	When
Albany/Berkeley	Solano Ave Winter Stroll	December 11
Dublin	Tree Lighting	December 2
Dublin	Breakfast with Santa	December 4
Hayward	Black Business Roundtable	December 10
Hayward	Latinx Business Roundtable	December 17
Hayward	Hayward Youth Commission	December 18
Hayward	Chabot College Flea Market	December 18
Hayward	Hayward Farmers' Market	January 8
Pleasanton	Chamber of Commerce	December 8



Webinars

Upcoming Events

Renewable 100
Transition Webinar.
Committing to
Renewable Energy!
(Residential)

December 8, 2021
4:00pm

[DETAILS ▶](#)

Seminario sobre la
transición al plan
Renewable 100.
¡Compromiso con la
energía renovable!

December 9, 2021
4:00pm

[DETAILS ▶](#)

Renewable 100
Transition Webinar.
Committing to
Renewable Energy!
(Commercial)

December 10, 2021
11:00am

[DETAILS ▶](#)

Renewable 100 过渡计划
网络研讨会。致力于
可再生能源的利用!

December 10, 2021
4:00pm

[DETAILS ▶](#)

Renewable 100
Transition Webinar.
Committing to
Renewable Energy!
(Residential)

December 20, 2021
4:00pm

[DETAILS ▶](#)

Renewable 100
Transition Webinar.
Committing to
Renewable Energy!
(Commercial)

December 21, 2021
12:30pm

[DETAILS ▶](#)

Renewable 100
Transition Webinar.
Committing to
Renewable Energy!
(Residential)

January 24, 2022
4:00pm

[DETAILS ▶](#)

Renewable 100
Transition Webinar.
Committing to
Renewable Energy!
(Commercial)

January 18, 2022
12:30pm

[DETAILS ▶](#)

Seminario sobre la
transición al plan
Renewable 100.
¡Compromiso con la
energía renovable!

January 20, 2022
4:00pm

[DETAILS ▶](#)

<https://ebce.org/news-and-events/>

First Notice

Format	Drop Date	City	Count
Hard Copy	11/29/21	Albany	6,500
	11/30/21	Dublin	22,700
	12/1/21	Pleasanton	24,000
	12/2/21	Hayward #1	25,000
	12/3/21	EBCE + Hayward #2	16,200
Email	12/6/2021	Albany	5,000
	12/7/2021	Dublin, batch 1	10,000
	12/8/2021	Dublin, batch 2	10,000
	12/9/2021	Pleasanton, batch 1	10,000
	12/13/2021	Pleasanton, batch 2	10,000
	12/14/2021	Hayward #1, batch 1	9,000
	12/15/2021	Hayward #1, batch 2	9,000
	12/16/2021	Hayward #2	6,000
	12/17/2021	EBCE general	6,000

- Content of hard copy letter provided in English, Spanish, and Chinese
- Email has translation links for Spanish, Chinese, Vietnamese, and Hindi



1999 Harrison Street, Suite 800
Oakland, CA 94612



Presorted
Standard
US Postage
PAID
EBCE



हिंदी | Tiếng Việt | Español | 中文

MAKING A DIFFERENCE, TOGETHER

Electricity Accounts Will Transition to 100% Renewable Energy in January 2022

To help achieve its Climate Action and Adaptation Plan goals, the City of Albany receives its electricity from East Bay Community Energy (EBCE), a local energy provider supplying greener electricity to the East Bay community. In January 2022, Albany residents and businesses will default to 100% renewable energy available through EBCE.

In June 2021, the Albany City Council voted to set the default electricity option for Albany customers to EBCE's Renewable 100 service starting in January 2022. Renewable 100 service is sourced from California wind and solar facilities including EBCE's new 57.5 megawatt wind farm in Livermore, and costs an additional 1 cent per kilowatt-hour above PG&E rates—that's about \$5 more per month for a typical home. Monthly costs vary more widely for businesses based on the amount of power used.

EBCE also offers their Bright Choice service, which is priced 1% below PG&E rates and contains approximately 5% more renewable energy than PG&E.

Customers who prefer to power their home or business with Bright Choice are welcome to do so by visiting ebce.org/albany and clicking on "Choose Bright Choice," or by calling 1-833-699-EBCE (3223) during business hours (9AM–5PM on weekdays). Take action by December 22 if you prefer to avoid automatic enrollment in Renewable 100.

Customers who participate in CARE, FERA, and Medical Baseline programs will default to Bright Choice service automatically, but can still choose Renewable 100. Customers can change their EBCE service or return to PG&E service anytime.

EBCE will be hosting a series of webinars to review the basics about their service, and to answer any questions. Details are available at ebce.org/albany.

Important information about
your electricity rates enclosed



<<Return to Table of Contents>>
<<Back to Home>>
<<Full Name>>
<<Address Line 1>>
<<City State ZIP Code>>

The East Bay's Public Power Agency

Contact us
1-833-699-EBCE (3223)
customer-support@ebce.org

Visit and follow us
ebce.org
@eastbayebce

Electricity Accounts Will Transition to 100% Renewable Energy in January 2022.

To help achieve its Climate Action Plan goals, the City of Hayward receives its electricity from East Bay Community Energy (EBCE), a local energy provider supplying greener electricity to the East Bay community. In 2022, Hayward residents and businesses will transition to 100% renewable energy available through EBCE.

In June 2021, the Hayward City Council voted to set the default electricity option for Hayward and return to EBCE's Renewable 100 service starting in January 2022. Renewable 100 service is sourced from California wind and solar facilities including EBCE's new 57.5 megawatt wind farm in Livermore, and costs an additional 1 cent per kilowatt-hour above PG&E rates—that's about \$5 to \$7 more per month for a typical home and varies more widely for businesses based on amount of power used.

EBCE also offers their Bright Choice service, which is priced 1% below PG&E rates and is approximately 5% more renewable energy than PG&E. Customers who prefer to power their home or business with Bright Choice are welcome to do so by visiting ebce.org/albany and clicking on "Choose Bright Choice," or by calling 1-833-699-EBCE (3223) during business hours (9AM–5PM on weekdays). Please take action by December 22 if you wish to avoid automatic enrollment in Renewable 100. Customers can change their EBCE service or return to PG&E service anytime.

Discount Programs: Customers on income-related and Medical Baseline discount programs will automatically remain on Bright Choice service, but can still choose Renewable 100. To learn if you are eligible for discount programs, visit ebce.org/feras.

To learn more about your electric service choices, please visit ebce.org/consume_plant_residential or ebce.org/consume_plant_business. Customers can also contact EBCE's call center at 1-833-699-EBCE (3223) during business hours (9AM–5PM on weekdays).

EBCE will be hosting a series of webinars to review the basics about their service, and to answer any questions. Details are available at ebce.org/albany.



Commercial Outreach

- **One-on-one outreach** to largest (by electric load) 25 customers overall and top 5-10 per city, if not already identified by top 25
- **Personalized email** sent to all commercial customers sent week of 11/15 with an invitation to the 12/10 webinar (4,775 total)
- Posts regarding transition and upcoming webinars in November
Chamber of Commerce newsletters to Pleasanton, Pleasanton Hacienda, Albany, Dublin Chamber of Commerce, Hayward, and East Bay Economic Development Alliance
 - All other community chambers shared a message about **Brilliant 100 sunset**



The East Bay is leading the transition to cleaner power.

[Home](#) | [Tiếng Việt](#) | [Español](#) | [中文](#)

November 2021

Hello **<customer name>**,

Please read this message for important information from the City of **<customer city>** and East Bay Community Energy, your local electricity supplier, regarding your business' electricity accounts in **<customer city>**.

The City of **<customer city>** is switching businesses and residents to 100% renewable energy through East Bay Community Energy's (EBCE's) Renewable 100 service plan. Choosing Renewable 100 is one way your city is working to reduce carbon emissions and help in the fight against climate change.

This change will take effect in January 2022, displaying on your February 2022 energy bill.

YOUR OPTIONS:

1. EBCE's **Renewable 100** service is sourced from 100% California wind and solar renewable energy and is \$0.01/kWh more than PG&E's standard generation rate.
2. EBCE's **Bright Choice** service is set to be 5% more renewable than PG&E's renewables target and costs 1% less than PG&E's standard generation rate.
3. Customers are eligible to leave EBCE's generation service and receive PG&E's generation service. PG&E's standard generation rate is 1% more expensive than EBCE's Bright Choice.

To learn more, please join our **business-focused webinar on this transition on Thursday, December 10 at 11:00 AM**. [Click here](#) to register. The webinar will be recorded and available online for those who are unable to attend.

Customers may choose Bright Choice or Renewable 100 today by filling out the necessary information through the link below or by contacting EBCE. If you take no action, your account will shift to Renewable 100. For more information about EBCE or for an annual cost estimate for Renewable 100 or Bright Choice, please contact EBCE at 1-833-699-EBCE (3223) or customer-support@ebce.org.

[Contact Us](#)

[Choose Bright Choice](#)

[Choose Renewable 100 now](#)

As a reminder, East Bay Community Energy is **<customer city>** default electricity generation provider. PG&E continues to provide electricity delivery service in addition to sending you your energy bill.

For information on EBCE's renewable energy projects, please see our [Power Projects web page](#), which includes a video from our recent Scott Haggerty Wind Energy Center opening in Livermore.

Thank you for supporting your local clean energy supplier.

The EBCE Account Services Team

Next Steps

- **Second notice** will be mailed in January
- Service **transitions** throughout January
- Begin finalizing **content for Berkeley and San Leandro** (first notice in February)
- Report back to the Board on **enrollment statistics** in February



Staff Report Item 13

TO: East Bay Community Energy Board of Directors
FROM: Vanessa Gerber, Strategic Operations Associate
SUBJECT: Amendment to Administrative Procurement Policy
DATE: December 15, 2021

Recommendation

Adopt a Resolution approving a fifth amended and restated Administrative Procurement Policy.

Background and Discussion

In accordance with EBCE’s Supplier Diversity Program, staff is proposing an update to the Administrative Procurement Policy to include preferences for two additional business categories. Specifically, this update would include preferences for Disabled Veteran Business Entities (DVBES) and companies located in Disadvantaged Communities (DAC) as identified by the California Environmental Protection Agency’s (CalEPA) CalEnviroScreen Tool. These two new preferences will join the existing preferences for businesses located within EBCE’s service area, as well as union labor. The preferences are reflected in section “IV. Formal Bidding Procedures” which applies to procurements for General Contractual Services exceeding \$100,000 per fiscal year. Below is a table outlining the preferences:

Category	Bonus	Policy Version
3.1.1 Businesses within Service Territory	5%	1.6 (existing)
3.1.2 Union Labor	2.5%	1.6 (existing)
3.1.3 Disabled Veteran Business Enterprises	2.5%	1.7 (proposed)
3.1.4 Disadvantaged Communities	2.5%	1.7 (proposed)

The preference for DVBES was previously included in the Administrative Procurement Policy (Amended and Restated 2018-9 version) but was struck along with all other General Order 156

(GO 156) Supplier Diversity classifications¹. DVBEs are the only business category that EBCE can exhibit preference to out of the GO 156 list, as per California Proposition 209. Preference for DVBEs is consistent with California State agency procurement procedures.

The CalEPA identifies disadvantaged communities through socioeconomic, public health, and environmental criteria. Using the CalEnviroScreen Tool, the CalEPA has identified the 25% highest scoring census tracts and identified those census tracts as “disadvantaged communities.” EBCE’s service area contains several of these census tracts:
<https://oehha.ca.gov/calenviroscreen/sb535>.

Attachments

- A. Resolution to approve a fifth amended and restated Administrative Procurement Policy
- B. Exhibit A Policy 1.7 Fifth Amended and Restated Administrative Procurement Policy
- C. Administrative Procurement Policy redline against version 1.6

¹ California Public Utilities Commission General Order 156 defines calls for procurements from women-owned, minority-owned, disabled veteran-owned, and/or LGBT-owned businesses. See the full text here: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/bco/utility-supplier-diversity-program/general-order-156.pdf>

RESOLUTION NO. R-2021-__

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY TO APPROVE A FIFTH AMENDED AND RESTATED ADMINISTRATIVE PROCUREMENT POLICY

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.* (the “Act”), 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, it is in the interest of East Bay Community Energy Authority (“EBCE”) to establish administrative procurement practices that facilitate efficient business operations and provide fair compensation and local workforce opportunities whenever possible within a framework of high quality, competitive service offerings;

WHEREAS, EBCE seeks to support companies and contractors that reflect its values and already grants bonus points in competitive solicitation scoring to businesses located in EBCE’s Service Territory and/or businesses using union labor;

WHEREAS, EBCE may also grant bonus points in competitive solicitation scoring to Disabled Veteran Business Entities (DVBEs) and/or companies located in Disadvantaged Communities (DAC) as identified by the California Environmental Protection Agency’s (CalEPA) CalEnviroScreen Tool.

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

Section 1. The Board hereby adopts the Fifth Amended and Restated Administrative Procurement Policy attached hereto as Exhibit A and as listed as Policy #1.7 to incorporate updates to the Formal Bidding Procedures that grant preference to DVBEs and businesses located in DACs.

ADOPTED AND APPROVED at a regular meeting of the EBCE Board of Directors on this 15th day of December, 2021

Dianne Martinez, Chair

Attest:

Clerk of the Board



FIFTH AMENDED AND RESTATED ADMINISTRATIVE PROCUREMENT POLICY

Policy Number 1.7

December 15, 2021

Agenda Item # XX

Resolution Number R-2021-XX

I. PURPOSE

It is in the interest of East Bay Community Energy (“EBCE”) to establish administrative procurement practices that facilitate efficient business operations and provide fair compensation and local workforce opportunities whenever possible within a framework of high quality, competitive service offerings.

II. TYPES OF CONTRACTS

1. Contracts for Goods and Non-Professional Services. As used in this policy, “General Contractual Services” means:
 - 1.1. Any and all supplies, articles, equipment, or personal property furnished to or used by an organizational unit of EBCE; and
 - 1.2. Most types of services, excluding professional services as defined below, under which the contractor provides services which are required by EBCE, but not furnished by the EBCE’s own employees.
2. Contracts for Professional Services. As used in this policy, “Professional Services” means:
 - 2.1. The services of attorneys, physicians, architects, engineers, consultants, auditors, or other individuals or organizations possessing a high degree of professional, unique specialized technical skill or expertise, not always adaptable to competitive bidding. Professional Services are not considered General Contractual Services for the purpose of these procurement procedures.
3. Power Procurement Contracts
 - 3.1. Contracts for energy (also known as Power Purchase Agreements or PPAs) or energy related products shall be subject to the requirements and signing authorities set out in Section IX of this Policy.
4. All Contracts
 - 4.1. When procuring goods and services utilizing federal funds (e.g. grant funds), EBCE shall comply with all federal project requirements and Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. (See 2 CFR § 200)

- 4.2. No EBCE employee, official, or director shall split purchases into more than one purchase in order to avoid the procurement requirements in this policy. Splitting purchases does not allow for a competitive marketplace, increases administrative workflow, and may create ethical issues.
 - 4.3. No EBCE employee, officer, or Director shall accept, directly or indirectly, any gift, rebate, money or anything else of value from any person or entity if such gift, rebate, money or anything of value is intended to reward or be an inducement for conducting business, placing orders with, or otherwise using the employee's position to secure an agreement with EBCE.
 - 4.4. Prior to signing any agreement for General Contractual Services or Professional Services, the individual signing shall ensure all of the following:
 - 4.4.1. The contract compensation has been budgeted for in the current EBCE budget;
 - 4.4.2. That adequate funds have been appropriated by the Board;
 - 4.4.3. That such funds are unexpended and unencumbered sufficient to pay the expense of the contract; and
 - 4.4.4. That any agreement for General Contractual Services or Professional Services for an amount of \$5,000 or more in one calendar year has been approved as to form and content by the General Counsel or his/her designee.
 - 4.5. EBCE shall report on all new contracts, regardless of scope or contract value, at each Board meeting. Unless subject to the attorney client privilege or some other legal protection, as a public agency, EBCE shall release all public records, including contracts, as required by the Public Records Act.
 - 4.6. Agreements with existing vendors may be amended and/or extended to allow for the continuation of services for no more than a total term of five (5) years. Such amendments/extensions are subject to the applicable signing authority identified in Tables 1-4 based on the total dollar amount of the agreement.
 - 4.7. The CEO may suspend the requirements of Section III (General Contractual Services Procurement) or Section V (Professional Services Procurement) for any agreement. Furthermore, the COO may suspend the requirements of Section III or Section V for any agreement they would otherwise have the authority to sign. However, all agreements for which the required procurement procedures have been suspended pursuant to this Section II. 4.7 must be approved by the Chair and Vice Chair of the Board of Directors and must comply with signing authority restrictions identified in Section III, Table 2, and Section V, Table 4.
5. Promotional Items and Bulk Purchases
 - 5.1. The purchase of office supplies, promotional items, and similarly low risk goods bought in bulk online or otherwise are subject to the relevant procurement methods identified in Section III, but do not require a Consulting Services Agreement or other agreement.

III. GENERAL CONTRACTUAL SERVICES PROCUREMENT

1. Procurement Method

1.1. Table 1 indicates the appropriate procurement method for the purchase of General Contractual Services of certain dollar amounts.

1.2. Nothing in this section prohibits the use of a more stringent procurement method than the one indicated by Table 1. At his or her discretion, the CEO may direct that an agreement for General Contractual Services is awarded through the Formal Bidding Procedures described herein.

Table 1

PROCUREMENT METHOD	DOLLAR AMOUNT per FISCAL YEAR	ADDITIONAL REQUIREMENTS
Formal Bidding Procedure	> \$100,000	RFP/RFQ
Solicit 3 written quotes; may be in electronic format	\$50,000 - \$100,000	Quotes must include provider's name, address, phone number, professional license number, if applicable
Solicit 3 verbal quotes	\$10,000 - \$49,999.99	Staff shall note quotes by including the providers' name, address, phone number and amount of the verbal proposal in EBCE's records
No solicitation necessary	< \$10,000	Seek the lowest price for the highest quality
Purchase Order Can Be Used	<\$5,000	Contracts for goods or low-risk off- site services only

2. Signing Authority

2.1. Table 2 indicates the appropriate signing authority for the purchase of General Contractual Services of certain dollar amounts.

2.2. Nothing in this section prohibits EBCE staff from seeking approval of a more senior signing authority than is permitted by this policy.

Table 2

SIGNING AUTHORITY	DOLLAR AMOUNT	CONTRACT TYPE
Board Approval	> \$100,000	All contracts
Chief Executive Officer, or his/her designee	\$0 - \$100,000	All contracts
General Counsel	\$0-\$50,000	All contracts related to the activities or functions of the Office of the General Counsel
Chief Operating Officer	\$0-\$25,000	All contracts related to the activities or functions of the Office of the COO

Senior Director or Vice President	\$0-\$10,000	All contracts whose object or purpose is related to the activities or functions of that Senior Director or Vice President
Director	\$0-\$5,000	All contracts whose object or purpose is related to the activities or functions of that Director

IV. FORMAL BIDDING PROCEDURES

Except as otherwise specifically directed in writing by the CEO, agreements for the purchase of General Contractual Services for a total amount that exceeds \$100,000 per fiscal year shall be procured as follows:

1. Formal Bid Invitations. Invitations to participate in the Request for Proposal/Request for Qualifications process shall include a general description of the supplies or services sought by EBCE, and shall specify the time, place and date for opening bids.
2. Evaluation. Bids and proposals received through a competitive solicitation shall be subject to a set of criteria and a scoring system, reviewed and evaluated by relevant EBCE staff and an evaluation committee selected by the relevant staff, CEO, COO or General Counsel, or at the discretion of the Board, members of a designated Board subcommittee.
3. Lowest Responsible Bidder. "Lowest responsible bidder" as used in this policy shall mean that bidder who best responds in price, quality, service, fitness, or capacity to the particular requirements of EBCE. Price alone shall not be the determining factor but shall be considered along with other factors, including but not limited to the following:
 - 3.1. EBCE seeks to support companies and contractors that reflect its values and has identified four vendor/contractor categories that shall be given special consideration during bid evaluation and selection. In competitive solicitations, these categories shall receive bonus percentages/points ranging from 2.5% - 5% for a maximum bonus total of 12.5% in a bid scoring process:
 - 3.1.1 Businesses within Service Territory: EBCE desires to support business within its service territory. Businesses with office(s) located in EBCE's service territory and businesses that have at least 25% of their workforce who reside in EBCE's service territory shall receive a bonus equal to 5% or 5 points out of a 100-point scoring system in competitive solicitations.
 - 3.1.2 Union Labor: EBCE desires to support the use of union labor where possible. EBCE shall make its best effort to work with unionized contractors and subcontractors in the provision of goods and services to EBCE. Businesses who use union labor and/or unionized contractors shall receive a bonus equal to 2.5% or 2.5 points out of a 100-point scoring system in competitive solicitations.
 - 3.1.3 Disabled Veteran Business Enterprises: EBCE desires to support Disabled Veteran Business Enterprises (DVBEs). Businesses that are registered with the California Department of General Services as a DVBE shall receive a bonus equal to 2.5% or 2.5 points out of a 100-point scoring system in competitive solicitations.

3.1.4 Disadvantaged Communities: EBCE desires to support businesses located in a Disadvantaged Community (DAC) as identified by the California Environmental Protection Agency's (CalEPA) CalEnviroScreen Tool. Businesses with a primary office (i.e. where work is primarily conducted for EBCE) located in a DAC, as determined by the latest version of the Tool at the time, shall receive a bonus equal to 2.5% or 2.5 points out of a 100-point scoring system in competitive solicitations.

3.2. EBCE is committed to the highest standards of responsible behavior and integrity in all of its business relationships. EBCE will consider a company's business practices, environmental track record, and commitment to fair employment practices and compensation in its procurement decisions.

3.3. Award of Contract. EBCE shall award the contract to purchase goods or services to the lowest responsible bidder, unless such an award would be prohibited by California law.

V. PROFESSIONAL SERVICES PROCUREMENT

1. Procurement Method

1.1. Table 3 indicates the appropriate procurement method for the purchase of Professional Services of certain dollar amounts.

1.2. Nothing in this section prohibits the use of a more stringent procurement method than the one indicated by Table 3. At his or her discretion, the CEO may direct that an agreement for Professional Services is awarded through the Formal Bidding Procedures described herein.

Table 3

PROCUREMENT METHOD	DOLLAR AMOUNT per FISCAL YEAR	ADDITIONAL REQUIREMENTS
Solicit 3 written quotes; may be in electronic format	\$50,000 and above	Proposal must include provider's name, address, phone number, professional license number, if applicable
Solicit 3 verbal quotes	\$10,000 - \$49,999.99	Staff shall note quotes by including the providers' name, address, phone number and amount of the verbal proposal in EBCE's records
No solicitation is necessary	\$0 - \$10,000	Seek the lowest price for the highest quality

2. Signing Authority

2.1. Table 4 indicates the appropriate signing authority for an agreement for Professional Services of certain dollar amounts.

2.2. Nothing in this section prohibits EBCE staff from seeking approval of a more senior signing authority than is permitted by this policy.

Table 4

SIGNING AUTHORITY	DOLLAR AMOUNT	CONTRACT TYPE
Board Approval	> \$100,000 per fiscal year	All contracts
Chief Executive Officer, or his/her designee	\$0 - \$100,000 per fiscal year	All contracts
General Counsel	\$0-\$50,000 per fiscal year	All contracts related to the activities or functions of the Office of the General Counsel
Chief Operating Officer	\$0-\$25,000 per fiscal year	All contracts related to the activities or functions of the Office of the COO
Senior Director or Vice President	\$0-\$10,000 per fiscal year	All contracts whose object or purpose is related to the activities or functions of that Senior Director or Vice President
Director	\$0-\$5,000 per fiscal year	All contracts whose object or purpose is related to the activities or functions of that Director

VI. SOLE SOURCE PROCUREMENT

1. Under some circumstances, EBCE competitive solicitation requirements may be dispensed with when the goods or services are only available from one source either because the brand or trade name article, goods, or product or proprietary service is the only one which will properly meet the needs of the EBCE or the item or service is unique and available only from a sole source.
2. Sole source purchasing, whereby the procurement methods identified in Tables 1-4 are not required, is authorized when the goods or services contemplated are only able to be performed by a sole provider, such as the holder of an exclusive patent or franchise, for the purchase of unique or innovative goods or services including but not limited to computer software and technology, or for purchases of goods or services when there is a demonstrated need for compatibility with an existing item or service used by EBCE.
3. A sole source may be designated when it is apparent that a needed product or service is uniquely available from the source, or for all practical purposes, it is justifiably in the best interest of EBCE.
4. The following factors are not sufficient to justify a sole source procurement:
 - 4.1. Personal preference for product or vendor
 - 4.2. Cost
 - 4.3. Vendor performance
 - 4.4. Local service (this may be considered an award factor in competitive bidding)
 - 4.5. Features that exceed the minimum requirements for the goods or services

VI. EMERGENCY PROCUREMENT

1. In the event of an emergency, the CEO may suspend the normal purchasing and procurement requirements for goods and services related to abatement of the impacts or effects of the emergency.
2. An emergency is deemed to exist in the following circumstances:
 - 2.1. There is an unexpected occurrence requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services, including the provision of energy or power to EBCE customers; or
 - 2.2. There is immediate need to prepare for national or local defense; or
 - 2.3. There is a breakdown in infrastructure or an essential service which requires the immediate purchase of supplies or contractual services to protect the public health, or safety or property; or
 - 2.4. A local emergency or disaster has been declared.

VII. COOPERATIVE PURCHASING

1. The procurement methods identified in Table 1 -4 shall not be required when the contract for goods or services will be provided by another governmental agency.
2. EBCE may adopt another governmental agency's agreement with a contractor ("Piggyback Agreement") as its own without adhering to the procurement methods identified in Table 1-4 if that Piggyback Agreement is the product of the respective governmental agency's formal competitive solicitation process, provided that that agency's procurement is not in conflict with California law.

VIII. PUBLIC PROJECTS

1. Uniform Public Construction Cost Accounting Act. EBCE adheres to the alternative bidding procedures provided by the Uniform Public Construction Cost Accounting Act, California Public Contract Code section 22000 et seq. (UPCCAA) Public projects (as defined in Section 22002 of the California Public Contract Code) that do not exceed the dollar limits in Section 22032(b) of the Public Contract Code (as such limits currently exist or may subsequently be amended), may be let to contract by informal procedures as set forth in the UPCCAA.
2. At the time of the adoption of this Policy, the UPCCAA applied to the following types of projects:
 - 2.1. Public projects include construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility. This includes painting or repainting of any publicly owned, leased, or operated facility.

- 2.2. Public projects up to \$60,000 may be performed by EBCE employees, by negotiated contract, or by purchase order pursuant to the UPCCAA.
- 2.3. Public projects up to \$200,000 may be contracted using informal procedures as set forth in the UPCCAA.
3. Pre-Qualified List. A list of contractors may be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission (CUCCAC).
4. Notice.
 - 4.1. Where a public project is to be performed, a notice inviting informal bids shall be mailed, faxed, or emailed not less than ten (10) days before bids are due to all contractors for the category of work to be bid as shown on the Pre-Qualified list developed in accordance with this Section IV, and to all construction trade journals as specified by the CUCCAC in accordance with Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the department soliciting bids, provided, however; if there is no list of qualified contractors maintained by EBCE for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the CUCCAC.
 - 4.2. The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project and state the time and place for the submission of bids.
5. Award of Contract. The CEO and his or her designee is authorized to award public project contracts, subject to the signing authority permitted by Table 5. Nothing in this section prohibits EBCE staff from seeking approval of a more senior signing authority than is permitted by this policy.

Table 5

SIGNING AUTHORITY	DOLLAR AMOUNT
Executive Committee of the Board of Directors or Board of Directors Approval	> \$100,000 per fiscal year
Chief Executive Officer, or his/her designee	\$0 - \$100,000 per fiscal year
General Counsel	\$0-\$50,000 per fiscal year
Chief Operating Officer	\$0-\$25,000 per fiscal year
Senior Director or Vice President	\$0-\$10,000 per fiscal year
Director	\$0-\$5,000 per fiscal year

IX. PROCUREMENT OF POWER

1. EBCE must secure sufficient power resources and energy attributes to serve its customers, comply with State law and meet EBCE's and its member agencies' goals. The Board shall approve the form of all master power purchase agreements. The signing authority in Section 4 shall not apply to power and energy attribute procurement. The following EBCE staff shall be authorized to enter into power purchase agreements and other agreements to secure power and energy attributes providing such agreements are in substantially the same form as the Board-approved master power purchase agreements, and that all transactions and agreements are in strict compliance with EBCE's Risk Management Policy:
 - 1.1. The CEO is authorized to enter into agreements in accordance to the approved Risk Management Policy.
 - 1.2. The COO is authorized to enter into agreements in accordance to the approved Risk Management Policy, provided that transactions shall not be over two years in duration and \$10,000,000 in total compensation.
 - 1.3. The Director of Power Resources is authorized to enter into agreements in accordance to the approved Risk Management Policy, provided that transactions shall not be over one year in duration and not be over \$2,000,000 in compensation.
 - 1.4. With dual signatures, the COO and Director of Power Resources are authorized to enter into agreements with equivalent authority as the CEO in accordance with the approved Risk Management Policy.

X. MISCELLANEOUS

1. The following signing authorities shall apply, after review and approval of the named agreements by the General Counsel, or his/her designee, except where in conflict with the Joint Powers Agreement, state or federal law:
 - 1.1. Non-Disclosure Agreements – Director level and above,
 - 1.2. Banking and Treasury Administration – COO level and above, and
 - 1.3. Release of Liability and Indemnification – Director level and above.



Policy Number 1.67

~~May 20, 2020~~
~~December 15, 2021~~
Agenda Item # ~~XX~~

~~Resolution Number R-2021-XX~~

I. PURPOSE

It is in the interest of East Bay Community Energy (“EBCE”) to establish administrative procurement practices that facilitate efficient business operations and provide fair compensation and local workforce opportunities whenever possible within a framework of high quality, competitive service offerings.

II. TYPES OF CONTRACTS

1. Contracts for Goods and Non-Professional Services. As used in this policy, “General Contractual Services” means:
 - 1.1. Any and all supplies, articles, equipment, or personal property furnished to or used by an organizational unit of EBCE; and
 - 1.2. Most types of services, excluding professional services as defined below, under which the contractor provides services which are required by EBCE, but not furnished by the EBCE’s own employees.
2. Contracts for Professional Services. As used in this policy, “Professional Services” means:
 - 2.1. The services of attorneys, physicians, architects, engineers, consultants, auditors, or other individuals or organizations possessing a high degree of professional, unique specialized technical skill or expertise, not always adaptable to competitive bidding. Professional Services are not considered General Contractual Services for the purpose of these procurement procedures.
3. Power Procurement Contracts
 - 3.1. Contracts for energy (also known as Power Purchase Agreements or PPAs) or energy related products shall be subject to the requirements and signing authorities set out in Section IX of this Policy.
4. All Contracts
 - 4.1. When procuring goods and services utilizing federal funds (e.g. grant funds), EBCE shall comply with all federal project requirements.

- 4.2. No EBCE employee, official, or director shall split purchases into more than one purchase in order to avoid the procurement requirements in this policy. Splitting purchases does not allow for a competitive marketplace, increases administrative workflow, and may create ethical issues.
 - 4.3. No EBCE employee, officer, or Director shall accept, directly or indirectly, any gift, rebate, money or anything else of value from any person or entity if such gift, rebate, money or anything of value is intended to reward or be an inducement for conducting business, placing orders with, or otherwise using the employee's position to secure an agreement with EBCE.
 - 4.4. Prior to signing any agreement for General Contractual Services or Professional Services, the individual signing shall ensure all of the following:
 - 4.4.1. The contract compensation has been budgeted for in the current EBCE budget;
 - 4.4.2. That adequate funds have been appropriated by the Board;
 - 4.4.3. That such funds are unexpended and unencumbered sufficient to pay the expense of the contract; and
 - 4.4.4. That any agreement for General Contractual Services or Professional Services for an amount of \$5,000 or more in one calendar year has been approved as to form and content by the General Counsel or his/her designee.
 - 4.5. EBCE shall report on all new contracts, regardless of scope or contract value, at each Board meeting. Unless subject to the attorney client privilege or some other legal protection, as a public agency, EBCE shall release all public records, including contracts, as required by the Public Records Act.
 - 4.6. Agreements with existing vendors may be amended and/or extended to allow for the continuation of services for no more than a total term of five (5) years. Such amendments/extensions are subject to the applicable signing authority identified in Tables 1-4 based on the total dollar amount of the agreement.
 - 4.7. The CEO may suspend the requirements of Section III (General Contractual Services Procurement) or Section V (Professional Services Procurement) for any agreement. Furthermore, the COO may suspend the requirements of Section III or Section V for any agreement they would otherwise have the authority to sign. However, all agreements for which the required procurement procedures have been suspended pursuant to this Section II. 4.7 must be approved by the Chair and Vice Chair of the Board of Directors and must comply with signing authority restrictions identified in Section III, Table 2, and Section V, Table 4.
5. Promotional Items and Bulk Purchases
 - 5.1. The purchase of office supplies, promotional items, and similarly low risk goods bought in bulk online or otherwise are subject to the relevant procurement methods identified in Section III, but do not require a Consulting Services Agreement or other agreement.

III. GENERAL CONTRACTUAL SERVICES PROCUREMENT

1. Procurement Method

1.1. Table 1 indicates the appropriate procurement method for the purchase of General Contractual Services of certain dollar amounts.

1.2. Nothing in this section prohibits the use of a more stringent procurement method than the one indicated by Table 1. At his or her discretion, the CEO may direct that an agreement for General Contractual Services is awarded through the Formal Bidding Procedures described herein.

Table 1

PROCUREMENT METHOD	DOLLAR AMOUNT per FISCAL YEAR	ADDITIONAL REQUIREMENTS
Formal Bidding Procedure	> \$100,000	RFP/RFQ
Solicit 3 written quotes; may be in electronic format	\$50,000 - \$100,000	Quotes must include provider's name, address, phone number, professional license number, if applicable
Solicit 3 verbal quotes	\$10,000 - \$49,999.99	Staff shall note quotes by including the providers' name, address, phone number and amount of the verbal proposal in EBCE's records
No solicitation necessary	< \$10,000	Seek the lowest price for the highest quality
Purchase Order Can Be Used	<\$5,000	Contracts for goods or low-risk off- site services only

2. Signing Authority

2.1. Table 2 indicates the appropriate signing authority for the purchase of General Contractual Services of certain dollar amounts.

2.2. Nothing in this section prohibits EBCE staff from seeking approval of a more senior signing authority than is permitted by this policy.

Table 2

SIGNING AUTHORITY	DOLLAR AMOUNT	CONTRACT TYPE
Board Approval	> \$100,000	All contracts
Chief Executive Officer, or his/her designee	\$0 - \$100,000	All contracts
General Counsel	\$0-\$50,000	All contracts related to the activities or functions of the Office of the General Counsel
Chief Operating Officer	\$0-\$25,000	All contracts related to the activities or functions of the Office of the COO

Senior Director or Vice President	\$0-\$10,000	All contracts whose object or purpose is related to the activities or functions of that Senior Director or Vice President
Director	\$0-\$5,000	All contracts whose object or purpose is related to the activities or functions of that Director

IV. FORMAL BIDDING PROCEDURES

Except as otherwise specifically directed in writing by the CEO, agreements for the purchase of General Contractual Services for a total amount that exceeds \$100,000 per fiscal year shall be procured as follows:

1. **Formal Bid Invitations.** Invitations to participate in the Request for Proposal/Request for Qualifications process shall include a general description of the supplies or services sought by EBCE, and shall specify the time, place and date for opening bids.
2. **Evaluation.** Bids and proposals received through a competitive solicitation shall be subject to a set of criteria and a scoring system, reviewed and evaluated by relevant EBCE staff and an evaluation committee selected by the relevant staff, CEO, COO or General Counsel, or at the discretion of the Board, members of a designated Board subcommittee.
3. **Lowest Responsible Bidder.** "Lowest responsible bidder" as used in this policy shall mean that bidder who best responds in price, quality, service, fitness, or capacity to the particular requirements of EBCE. Price alone shall not be the determining factor but shall be considered along with other factors, including but not limited to the following:
 - 3.1. EBCE seeks to support companies and contractors that reflect its values and has identified ~~two~~four vendor/contractor categories that shall be given special consideration during bid evaluation and selection. In competitive solicitations, these categories shall receive bonus percentages/points ranging from 2.5% - 5% for a maximum bonus total of ~~4~~12.5% in a bid scoring process:
 - 3.1.1 **Businesses within Service Territory:** EBCE desires to support business within its service territory. Businesses with office(s) located in EBCE's service territory and businesses that have at least 25% of their workforce who reside in EBCE's service territory shall receive a bonus equal to 5% or 5 points out of a 100-point scoring system in competitive solicitations.
 - 3.1.2 **Union Labor:** EBCE desires to support the use of union labor where possible. EBCE shall make its best effort to work with unionized contractors and subcontractors in the provision of goods and services to EBCE. Businesses who use union labor and/or unionized contractors shall receive a bonus equal to 2.5% or 2.5 points out of a 100-point scoring system in competitive solicitations.

3.1.3 Disabled Veteran Business Enterprises: EBCE desires to support Disabled Veteran Business Enterprises (DVBEs). Businesses that are registered with the California Department of General Services as a DVBE shall receive a bonus equal to 2.5% or 2.5 points out of a 100-point scoring system in competitive solicitations.

3.1.4 Disadvantaged Communities: EBCE desires to support businesses located in a Disadvantaged Community (DAC) as identified by the California Environmental Protection Agency's (CalEPA) CalEnviroScreen Tool. Businesses with a primary office (i.e. where work is primarily conducted for EBCE) located in a DAC, as determined by the latest version of the Tool at the time, shall receive a bonus equal to 2.5% or 2.5 points out of a 100-point scoring system in competitive solicitations.

- 3.2. EBCE is committed to the highest standards of responsible behavior and integrity in all of its business relationships. EBCE will consider a company's business practices, environmental track record, and commitment to fair employment practices and compensation in its procurement decisions.
- 3.3. Award of Contract. EBCE shall award the contract to purchase goods or services to the lowest responsible bidder, unless such an award would be prohibited by California law.

V. PROFESSIONAL SERVICES PROCUREMENT

1. Procurement Method

- 1.1. Table 3 indicates the appropriate procurement method for the purchase of Professional Services of certain dollar amounts.
- 1.2. Nothing in this section prohibits the use of a more stringent procurement method than the one indicated by Table 3. At his or her discretion, the CEO may direct that an agreement for Professional Services is awarded through the Formal Bidding Procedures described herein.

Table 3

PROCUREMENT METHOD	DOLLAR AMOUNT per FISCAL YEAR	ADDITIONAL REQUIREMENTS
Solicit 3 written quotes; may be in electronic format	\$50,000 and above	Proposal must include provider's name, address, phone number, professional license number, if applicable
Solicit 3 verbal quotes	\$10,000 - \$49,999.99	Staff shall note quotes by including the providers' name, address, phone number and amount of the verbal proposal in EBCE's records
No solicitation is necessary	\$0 - \$10,000	Seek the lowest price for the highest quality

2. Signing Authority

- 2.1. Table 4 indicates the appropriate signing authority for an agreement for Professional Services of certain dollar amounts.

- 2.2. Nothing in this section prohibits EBCE staff from seeking approval of a more senior signing authority than is permitted by this policy.

Table 4

SIGNING AUTHORITY	DOLLAR AMOUNT	CONTRACT TYPE
Board Approval	> \$100,000 per fiscal year	All contracts
Chief Executive Officer, or his/her designee	\$0 - \$100,000 per fiscal year	All contracts
General Counsel	\$0-\$50,000 per fiscal year	All contracts related to the activities or functions of the Office of the General Counsel
Chief Operating Officer	\$0-\$25,000 per fiscal year	All contracts related to the activities or functions of the Office of the COO
Senior Director or Vice President	\$0-\$10,000 per fiscal year	All contracts whose object or purpose is related to the activities or functions of that Senior Director or Vice President
Director	\$0-\$5,000 per fiscal year	All contracts whose object or purpose is related to the activities or functions of that Director

VI. SOLE SOURCE PROCUREMENT

1. Under some circumstances, EBCE competitive solicitation requirements may be dispensed with when the goods or services are only available from one source either because the brand or trade name article, goods, or product or proprietary service is the only one which will properly meet the needs of the EBCE or the item or service is unique and available only from a sole source.
2. Sole source purchasing, whereby the procurement methods identified in Tables 1-4 are not required, is authorized when the goods or services contemplated are only able to be performed by a sole provider, such as the holder of an exclusive patent or franchise, for the purchase of unique or innovative goods or services including but not limited to computer software and technology, or for purchases of goods or services when there is a demonstrated need for compatibility with an existing item or service used by EBCE.
3. A sole source may be designated when it is apparent that a needed product or service is uniquely available from the source, or for all practical purposes, it is justifiably in the best interest of EBCE.
4. The following factors are not sufficient to justify a sole source procurement:
 - 4.1. Personal preference for product or vendor
 - 4.2. Cost
 - 4.3. Vendor performance
 - 4.4. Local service (this may be considered an award factor in competitive bidding)
 - 4.5. Features that exceed the minimum requirements for the goods or services

VI. EMERGENCY PROCUREMENT

1. In the event of an emergency, the CEO may suspend the normal purchasing and procurement requirements for goods and services related to abatement of the impacts or effects of the emergency.
2. An emergency is deemed to exist in the following circumstances:
 - 2.1. There is an unexpected occurrence requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services, including the provision of energy or power to EBCE customers; or
 - 2.2. There is immediate need to prepare for national or local defense; or
 - 2.3. There is a breakdown in infrastructure or an essential service which requires the immediate purchase of supplies or contractual services to protect the public health, or safety or property; or
 - 2.4. A local emergency or disaster has been declared.

VII. COOPERATIVE PURCHASING

1. The procurement methods identified in Table 1 -4 shall not be required when the contract for goods or services will be provided by another governmental agency.
2. EBCE may adopt another governmental agency's agreement with a contractor ("Piggyback Agreement") as its own without adhering to the procurement methods identified in Table 1-4 if that Piggyback Agreement is the product of the respective governmental agency's formal competitive solicitation process, provided that that agency's procurement is not in conflict with California law.

VIII. PUBLIC PROJECTS

1. Uniform Public Construction Cost Accounting Act. EBCE adheres to the alternative bidding procedures provided by the Uniform Public Construction Cost Accounting Act, California Public Contract Code section 22000 et seq. (UPCCAA) Public projects (as defined in Section 22002 of the California Public Contract Code) that do not exceed the dollar limits in Section 22032(b) of the Public Contract Code (as such limits currently exist or may subsequently be amended), may be let to contract by informal procedures as set forth in the UPCCAA.
2. At the time of the adoption of this Policy, the UPCCAA applied to the following types of projects:
 - 2.1. Public projects include construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility. This includes painting or repainting of any publicly owned, leased, or operated facility.

- 2.2. Public projects up to \$60,000 may be performed by EBCE employees, by negotiated contract, or by purchase order pursuant to the UPCCAA.
- 2.3. Public projects up to \$200,000 may be contracted using informal procedures as set forth in the UPCCAA.
3. Pre-Qualified List. A list of contractors may be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission (CUCCAC).
4. Notice.
 - 4.1. Where a public project is to be performed, a notice inviting informal bids shall be mailed, faxed, or emailed not less than ten (10) days before bids are due to all contractors for the category of work to be bid as shown on the Pre-Qualified list developed in accordance with this Section IV, and to all construction trade journals as specified by the CUCCAC in accordance with Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the department soliciting bids, provided, however; if there is no list of qualified contractors maintained by EBCE for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the CUCCAC.
 - 4.2. The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project and state the time and place for the submission of bids.
5. Award of Contract. The CEO and his or her designee is authorized to award public project contracts, subject to the signing authority permitted by Table 5. Nothing in this section prohibits EBCE staff from seeking approval of a more senior signing authority than is permitted by this policy.

Table 5

SIGNING AUTHORITY	DOLLAR AMOUNT
Executive Committee of the Board of Directors or Board of Directors Approval	> \$100,000 per fiscal year
Chief Executive Officer, or his/her designee	\$0 - \$100,000 per fiscal year
General Counsel	\$0-\$50,000 per fiscal year
Chief Operating Officer	\$0-\$25,000 per fiscal year
Senior Director or Vice President	\$0-\$10,000 per fiscal year
Director	\$0-\$5,000 per fiscal year

IX. PROCUREMENT OF POWER

1. EBCE must secure sufficient power resources and energy attributes to serve its customers, comply with State law and meet EBCE's and its member agencies' goals. The Board shall approve the form of all master power purchase agreements. The signing authority in Section 4 shall not apply to power and energy attribute procurement. The following EBCE staff shall be authorized to enter into power purchase agreements and other agreements to secure power and energy attributes providing such agreements are in substantially the same form as the Board-approved master power purchase agreements, and that all transactions and agreements are in strict compliance with EBCE's Risk Management Policy:
 - 1.1. The CEO is authorized to enter into agreements in accordance to the approved Risk Management Policy.
 - 1.2. The COO is authorized to enter into agreements in accordance to the approved Risk Management Policy, provided that transactions shall not be over two years in duration and \$10,000,000 in total compensation.
 - 1.3. The Director of Power Resources is authorized to enter into agreements in accordance to the approved Risk Management Policy, provided that transactions shall not be over one year in duration and not be over \$2,000,000 in compensation.
 - 1.4. With dual signatures, the COO and Director of Power Resources are authorized to enter into agreements with equivalent authority as the CEO in accordance with the approved Risk Management Policy.

X. MISCELLANEOUS

1. The following signing authorities shall apply, after review and approval of the named agreements by the General Counsel, or his/her designee, except where in conflict with the Joint Powers Agreement, state or federal law:
 - 1.1. Non-Disclosure Agreements – Director level and above,
 - 1.2. Banking and Treasury Administration – COO level and above, and
 - 1.3. Release of Liability and Indemnification – Director level and above.