



Board of Directors Meeting
Wednesday, November 16, 2022
6:00pm

In person:

The Lake Merritt Room
Cal State East Bay - the Oakland Center
In the Transpacific Centre
1000 Broadway, Suite 109
Oakland, CA 94607

or via Zoom:

<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 of Directors, 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 two minutes per speaker and must complete an electronic speaker slip. The Board Chair may increase or decrease the time allotted to each speaker.

CONSENT AGENDA

- 4. Approval of Minutes from October 19, 2022**
- 5. AB 361 - Finding for Continued Remote Meetings**
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).
- 6. Contracts entered into (Informational Item)**
- 7. Fiscal Year 2021-2022 Budget to Actuals**
Present the actual financial performance relative to the planned budget for 2021-22 FY
- 8. Update EBCE Credit Card Use Policy**
Approve updates to EBCE's credit card policy
- 9. Tumbleweed Contract Amendment**
Authorize CEO to execute a contract amendment to the Tumbleweed ES
- 10. Komorous-Towey Architects Contract Amendment**
Amend existing CSA to expand architectural and engineering services into design and construction phase and increase compensation
- 11. Sixth Dimension Contract Amendment**
Amend existing CSA to expand construction management services into design and construction phase and increase compensation

REGULAR AGENDA

- 12. CEO REPORT**
 - A. Executive Committee Report
 - B. Finance, Administration and Procurement Subcommittee Meeting
 - C. Marketing, Regulatory and Legislative Subcommittee Meeting
 - D. New Staff
 - E. Marketing and Account Services Update
- 13. Community Advisory Committee Report**
- 14. Health E Communities Partnership (Action Item)**
Direct EBCE Staff to develop a program proposal to deploy \$15,000,000 in local development funds to deliver home electrification to households where one or more residents suffers from asthma.
- 15. Fiscal Year 2021-2022 Financial Audit (Informational Item)**
Present the findings from the audit of the previous fiscal year
- 16. Financial Reserve Contribution (Action Item)**
Seek approval to contribute to EBCE's financial reserves

17. EV Fast Charging Network Tolling Partners (Action Item)

Authorize CEO to negotiate and execute Tolling Agreements for the development and operation of EBCE's EV Fast Charging Network

18. Local Programs Update (Informational Item)

Receive an update on Local Programs

19. Appoint Chair and Vice-Chair (Action Item)

Appoint an interim Chair and Vice Chair, until such a time that the newly composed board can re-affirm the appointment or select a new Chair and Vice Chair.

20. Board Member and Staff Announcements including requests to place items on future Board agendas

21. Adjournment to Wednesday, December 21, 2022 at 6:00pm.



Draft Minutes

Board of Directors Meeting
Wednesday, October 19, 2022
6:00 pm

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Webinar ID: 870 2307 1843

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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: Tiedemann (Albany), Harrison (Berkeley), Kumagai (Dublin), Cox (Fremont), Marquez (Hayward), Munro (Livermore), Hannon (Newark), Kalb (Oakland), Cavanaugh (Piedmont), Narum (Pleasanton), Arriola (Tracy), Patino (Union City), Eldred (Community Advisory Committee), Vice-Chair Lopez (San Leandro) and Chair Martinez (Emeryville)

Excused: Directors: Valle (Alameda County)

Director Cox served as an Alternate for Director Mei (Fremont).

2. Pledge of Allegiance

3. Public Comment

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Blair Beekman spoke regarding the IRP report.

Alan Marling spoke in favor of nuclear energy as part of a green energy portfolio with wind and solar. Alan Marling spoke in opposition to pitting one renewable source of energy against another.

Tom Kelly (read by the clerk into the record) spoke regarding carbon emissions from Bright Choice as compared to a chart of 2021 power content labels furnished by the California Energy Commission. Tom Kelly described EBCE's power mix as dirty, and stated that it is time for the Board to direct staff to reduce Bright Choice's carbon emissions.

CONSENT AGENDA

4. Approval of Minutes from September 21, 2022

5. AB 361 - Finding for Continued Remote Meetings

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).

6. Contracts entered into (Informational Item)

7. Treasurer's Report

Present EBCE's cash position as of September 30, 2022

8. Printing and Mailing Services

Seek approval to amend contract with Pacific Printers for printing and mailing services

Blair Beekman spoke in support of technologies that facilitate hybrid meetings and access to public meetings and processes.

Vice Chair Lopez motioned to approve the Consent Agenda. Director Munro seconded the motion, which passed 14/0. Excused: Valle (Alameda County)

REGULAR AGENDA

9. CEO REPORT

A. Executive Committee Report

- B. New Staff
- C. Health-E Communities Partnership Update

Jessica Tovar spoke regarding the Health-E Communities Partnership, stating that it is moving in the right direction and addressing the needs of the community. Jessica Tovar spoke regarding concerns around the Air Pollution and Indoor Air Quality Research Program, the home electrification retrofit and renter displacement prevention.

Blair Beekman spoke regarding the Healthy E Homes Partnership, stating that EBCE should implement projects rather than conduct studies, leverage its name to create relationships, and focus on preventing renter displacement.

The Board Discussed:

- Monitoring and accountability
- Origins of Healthy-E Communities initiative
- Air Quality Board grants for local monitoring.
- Research objectives and timetable for results.
- CAC feedback and recommendations.
- Concerns around Benioff Children's Hospital grant proposal procedure
- Preventing renter displacement
- Low-income asthma patients focused program design
- Public ratepayer funds disbursement strategies
- Bright Choice carbon emissions reduction effort

10. Community Advisory Committee Report

- Chair Eldred reported that Alec Ward will submit a report on the number of jobs that EBCE has created.
- Chair Eldred reported that the CAC will receive an update on the call center.

11. Legislative Update (Informational Item)

Informational update on the 2022 state and federal legislative process

Blair Beekman spoke regarding concerns about how EBCE communicates about its power content label.

Jessica Tovar spoke regarding the Inflation Reduction Act, stating that EBCE should be able to facilitate access to, and distribution of, federal monies to local communities.

12. Integrated Resource Planning (IRP) Analysis & Approval of CPUC Filing (Action Item)

Review of IRP compliance filing and overview of EBCE-focused additional analysis. Board must review and approve EBCE's compliance filing before its submittal on November 1

Blair Beekman spoke regarding nuclear power and EBCE's power content label.

Director Kalb motioned to approve EBCE’s IRP compliance filing. Director Cavanaugh seconded the motion, which passed 13/0. Excused: Directors Valle (Alameda County). Excused: Director Harrison (Berkeley).

- 13. Long-Term Energy and Resource Adequacy Contracts for Approval (Action Item)**
Review of long-term power purchase agreements and energy storage agreements prior to execution

Blair Beekman made comments regarding the call-in center.

Chair Martinez motioned to approve staff recommendation. Director Hannon seconded the motion, which passed 14/0. Excused: Directors Valle (Alameda County).

- 14. Update to New Energy Metering (NEM) Policy (Action Item)**
Seek approval for proposed changes to the Net Energy Metering Policy to include an annual true-up option

Blair Beekman spoke regarding concerns about how EBCE communicates about nuclear energy and fossil fuels in its power content label.

Director Munro motioned to approve the staff recommendation. Director Harrison seconded the motion, which passed 14/0. Excused: Directors Valle (Alameda County)

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

- 16. Adjournment to Wednesday, November 16, 2022 at 6:00pm**



Consent Item 5

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: November 16, 2022

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



OFFICE OF THE AGENCY DIRECTOR

1000 San Leandro Boulevard, Suite 300
San Leandro, CA 94577
TEL (510) 618-3452
FAX (510) 351-1367

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.

The Honorable Board of Supervisors

March 6, 2020

Page 2 of 2

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

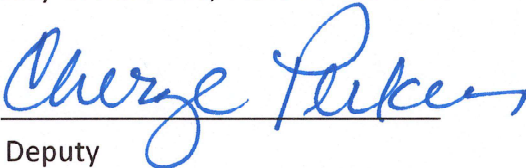
NOES: None

EXCUSED: Supervisors Chan and Miley - 2

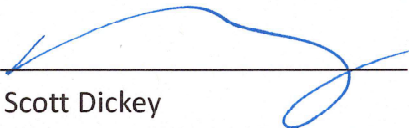


Richard Valle, President of the Board of Supervisors

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;

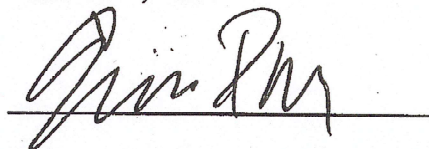
WHEREAS, based on the United States Department of Health and Human Services declaration and the Centers for Disease Control and Prevention statements, and multiple cases of COVID-19 and evidence of community transmission in the region, there is an ongoing risk and likelihood of additional COVID-19 positive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

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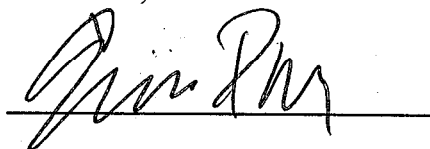
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THEREFORE, the County Health Officer hereby declares a renewal of a local health emergency originally declared on March 1st, 2020 throughout the County of Alameda;

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 6

TO: East Bay Community Energy Board of Directors
FROM: Nick Chaset, Chief Executive Officer
SUBJECT: Contracts Entered Into
DATE: November 16, 2022

RECOMMENDATION

Accept the CEO's report on contracts that EBCE has entered, as required by the Administrative Procurement Policy from October 12, 2022, to November 9, 2022;

C-2022-106 BCAL LMP Harrison Property LLC (San Francisco) License Agreement (lease) for 1999 Harrison Street suite 800 from Nov 2022 to October 31, 2023 at a cost of \$46,193.33 per month.

C-2022-107 Red Oak Engineering and Consulting (Spring Hill, TN) First Amendment to CSA extends the term of the Agreement through September 2023, expands the scope of the political consulting services, and increases the compensation by \$65,000 for a total amount not to exceed \$85,000.

C-2022-108 Mercer (Los Angeles) Statement of Work, provides for a Compensation and Benefits Study Refresh through October 2022, estimated cost to EBCE with another CCA sharing cost is \$82,000.

C-2022-109 Jamed Baak (Walnut Creek, CA) Consulting Services Agreement for services related to the assessment of the Critical Municipal Facilities RFO to EBCE through February 2023, total amount not to exceed \$25,000.

C-2022-110 SMUD (Sacramento) Amendment 13 to Exhibit A, Task Order 2 supports the ancillary work done by SMUD to update our value proposition for Bright Choice and Renewable 100, cost is not to exceed \$10,000.

C-2022-111 California State University, East Bay, Facility Use Agreement for the use of Oakland Professional Development and Conference Center for in-person CAC meetings November 2022 through December 2023, at a cost of \$495 each meeting.

C-2022-112 Wilson, Sonsini, Goodrich & Rosati (Palo Alto, CA) Third Amendment to CSA extends the term through June 30, 2023, and adds \$200,000 for Counsel services for FY 22-23, and adds \$54,000 for FY 21-22.

C-2022-113 Richards, Watson & Gershon (San Francisco) Second Amendment to CSA extends the term through June 30, 2023 and adds \$450,000 for General Counsel services for FY 22-23.

C-2022-114 Magellan Health Services of California (San Diego, CA) Services Agreement for Employee Assistance Program and Wellness Services for a term of 39 months.

C-2022-115 Zoom (San Jose) Subscription, annual subscriptions for Zoom accounts and phone services at an annual cost of \$6,732.50.



Consent Item 7

TO: East Bay Community Energy Board of Directors

FROM: Jason Bartlett, Finance Manager

SUBJECT: Fiscal Year 2021-2022 Audited Actuals to Budget Comparison
(Consent Item)

DATE: November 16, 2022

Recommendation

Receive report comparing EBCE's final audited financial actuals to the approved budget for the 2021-2022 fiscal year.

Background and Discussion

This report compares EBCE's financial expectations for the July 1, 2021, to June 30, 2022, fiscal year as presented in the approved budget to the resulting annual audit. Attachment A provides the summaries and comparisons as per budget line item. This comparison shows the approved June budget alongside the audited results and provides a percent difference for reference.

Highlights from the comparison show:

- Total Revenue and Other Sources is about 12% above budgeted amounts, due to higher than expected PG&E rates in 2022
- Energy costs are about 7% above budgeted amounts, due to increasing energy costs through the year
- Other expenditures were 9.7% under budget (\$3.6MM), due to lower costs in expected personnel expenses and functional areas
- Interest was about on par with budget
- Total Expenses were 7% above budget, as the combination of higher energy costs and reduced overhead
- Net result was about \$28.9M above budget, which represents a 5% margin

Fiscal Impact

This report has no fiscal impact.

Attachments

- A. FY 2022 Operating Fund Budget Comparison to Actuals Report Table

**EAST BAY COMMUNITY ENERGY AUTHORITY
OPERATING FUND
BUDGETARY COMPARISON SCHEDULE
Periods Ended June 30, 2022**

	2021/22 YTD Budget	2021/22 YTD Actual	2021/22 YTD Budget Variance Over (Under)	2021/22 YTD Actual/ Budget %	2021/22 Annual Budget	2021/22 Budget Remaining
REVENUE AND OTHER SOURCES						
Electricity Sales	\$ 508,636,000	\$ 549,707,554	\$ 41,071,554	108%	\$ 508,636,000	\$ (41,071,554)
Uncollectables	(8,939,000)	(10,994,151)	(2,055,151)	0%	(8,939,000)	2,055,151
Investment Income	798,000	221,757	(576,243)	28%	798,000	576,243
CAPP Revenue	-	7,901,267	7,901,267	0%	-	(7,901,267)
Liquidated Damages	-	14,658,400	14,658,400	0%	-	(14,658,400)
Other Income	894,000	346,148	(547,852)	39%	894,000	547,852
Total Revenue and Other Sources	<u>501,389,000</u>	<u>561,840,975</u>	<u>60,451,975</u>	112%	<u>501,389,000</u>	<u>(60,451,975)</u>
EXPENDITURES AND OTHER USES						
CURRENT EXPENDITURES						
Cost of energy	442,338,000	474,633,254	32,295,254	107%	442,338,000	(32,295,254)
Data Management/Billing/Customer Service	8,645,000	7,963,686	(681,314)	92%	8,645,000	681,314
PG&E Service Fees	2,752,000	2,718,013	(33,987)	99%	2,752,000	33,987
Scheduling	843,000	681,437	(161,563)	81%	843,000	161,563
Personnel	9,421,000	7,887,860	(1,533,140)	84%	9,421,000	1,533,140
Marketing, Outreach, Communications	1,614,000	1,284,047	(329,953)	80%	1,614,000	329,953
Legal, Policy, & Regulatory Affairs	1,592,000	1,026,409	(565,591)	64%	1,592,000	565,591
Other Professional Services	850,000	926,766	76,766	109%	850,000	(76,766)
General & Administrative	3,033,000	2,360,133	(672,867)	78%	3,033,000	672,867
Local Development (Transfer to LD Fund Budget)	8,475,000	8,475,000	-	100%	8,475,000	-
Depreciation	60,000	62,601	2,601	104%	60,000	(2,601)
Total Current Expenditures	<u>479,623,000</u>	<u>508,019,206</u>	<u>28,396,206</u>	106%	<u>479,623,000</u>	<u>(28,396,206)</u>
OTHER USES						
Interest and Financing Costs	898,000	903,504	5,504	101%	898,000	(5,504)
Capital expenditures	5,500,000	8,699,252	3,199,252	158%	5,500,000	(3,199,252)
Total Debt Service	<u>6,398,000</u>	<u>9,602,756</u>	<u>3,204,756</u>	150%	<u>6,398,000</u>	<u>(3,204,756)</u>
Total Expenditures, Other Uses and Debt Service	<u>486,021,000</u>	<u>517,621,962</u>	<u>31,600,962</u>	107%	<u>486,021,000</u>	<u>(31,600,962)</u>
Net Increase (Decrease) in Available Fund Balance	<u>\$ 15,368,000</u>	<u>\$ 44,219,013</u>	<u>\$ 28,851,013</u>	288%	<u>\$ 15,368,000</u>	

LOCAL DEVELOPMENT FUND
BUDGETARY COMPARISON SCHEDULE
Periods Ended June 30, 2022

	<u>2021/22 Annual Budget</u>	<u>2021/22 YTD Actual</u>	<u>2021/22 Budget Remaining</u>
REVENUE AND OTHER SOURCES			
Transfer from Operating Fund	\$ 8,475,000	\$ 8,475,000	\$ -
Grants/Credits	390,000	1,614,597	(1,224,597)
Total Revenues and other sources	<u>8,865,000</u>	<u>10,089,597</u>	<u>(1,224,597)</u>
EXPENDITURES AND OTHER USES			
CURRENT EXPENDITURES			
Program expenses	8,475,000	2,389,776	6,085,224
Total Expenditures and other uses	<u>8,475,000</u>	<u>2,389,776</u>	<u>6,085,224</u>
Net Increase (Decrease)	390,000	7,699,821	
Fund balance at beginning of period	10,067,835	10,067,835	
Fund balance at end of period	<u>\$ 10,457,835</u>	<u>\$ 17,767,656</u>	



Staff Report Item 8

TO: East Bay Community Energy Board of Directors

FROM: Jason Bartlett, Senior Finance Manager

SUBJECT: Credit Card Use and Limit Policy Update

DATE: November 16, 2022

Recommendation

Approve the Resolution authorizing the adoption of the Amended and Restated Policy that governs EBCE credit card use and the recommended increase in limits.

Background and Discussion

On October 17, 2018, the Board approved a policy governing protocols and controls on how the two American Express corporate credit cards are used. This policy set spending limits on the account at a total of \$20,000 per month, established governing controls on authorizations and limiting use to business purposes only, outlined safeguards, reporting, accounting, and payment protocols, as well as enforcement approaches.

The use of these cards has been instrumental to allow administration and functional areas to complete their work on a monthly basis. Administrative, travel, and other small budget expenses occur regularly throughout the course of business on a daily matter. These cards have allowed staff to use the products and services from vendors who do not allow for bank account payments, issue invoices, or accept checks--many on a recurring subscription basis.

Current Controls

EBCE has two processes by which the credit card account is used:

- Executive cardholders are allowed to use the card for business related needs with monthly review of charges at time of payment

- Employees can request the operational use of the cards through a two-level authorization process with a no-touch final payment (employees never see the card numbers)

All charges are monitored with monthly reviews and independent annual audits. Finance employs a practice of 100% receipt accounting, which means all receipts must be collected, logged, and retained for the monthly reviews. All monthly reports are reviewed and an annual report is delivered to the independent auditors for review.

Additional controls require executive charges to be reviewed independently from operational charges. Safeguards are established to ensure the security of the cards in case of misplacement, loss, or external fraud. Accounting and reporting programs are also maintained to support the afore-mentioned security and review controls.

Current Demand

At the time the current policy was established, there were 18 employees at EBCE. Today, there are 56 on payroll with a target for 64 by the end of the fiscal year. With the growth of employees, there comes an increase in demand for operational use on the cards.

More than one-third of the monthly limit on the credit cards is now recurring subscription charges for necessary software, data sources, marketing processes, position advertising, and other technological needs; and in 3 out of 4 months the cards are at capacity before the billing cycle ends. This creates two problems with card management:

- First, it makes it challenging to keep the capacity necessary for Executive officer use, especially with expanding travel and use demands as COVID-19 lockdowns ease up
- Second, this co-mingles many charges on specific cards with subscriptions, small purchases, and other administrative needs with Executive required use, and requires additional efforts to maintain accounting separation as use increases.

Amendment Requests

To correct the growing problems described above, staff requests two amendments to the existing policy:

- The issuance of a third card to be held specifically by the Finance Lead and used solely for internal administrative use to manage subscriptions and operating purchases separately from the executive use

- Increase the account limit from \$20,000 to a maximum of \$60,000 per month, or on average from \$10,000 to \$20,000 per card per month.

These two amendments would allow capacity to be available for necessary executive use and resolve the co-mingling maintenance with cost accounting. Additionally, these updates do not seek to change any of the existing controls or protocols which are proven effective to date.

Staff is also recommending a third amendment of additional control process to the Finance Lead held card by requiring operational charges made on this card have an additional layer of approval with functional leads, and an executive level monthly review of these charges.

These amendments have been reviewed, and given approval, by our independent auditors.

Fiscal Impact

The change in this policy will have no impact on costs and budgets.

Committee Recommendation

Finance, Administrative, and Procurement Subcommittee has reviewed these suggested changes to the policy on November 4, 2022, and their recommendations have been incorporated into the proposed policy amendments.

Attachments

- A. Resolution approving the amendments to credit card policy
- B. Amended Credit Card Policy

RESOLUTION NO. __

A RESOLUTION OF THE BOARD OF DIRECTORS

**OF THE EAST BAY COMMUNITY ENERGY AUTHORITY APPROVING AMENDMENTS TO
THE CREDIT CARD USE AND CONTROLS 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.*, 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 adopted a Credit Card Use and Control Policy to govern card responsibilities on October 17, 2018,

WHEREAS This adopted Policy established the issuance of two cards—one to the CEO and one to the COO/Treasurer,

WHEREAS This adopted policy established spending limits of not more than \$20,000 per month,

WHEREAS There are two uses for the cards—Executive and operational—and each have effective controls that ensure safeguards and securities against misuse and fraud,

WHEREAS EBCE staff has grown from 18 to 68 positions and recurring costs have consumed more than one-third of the total card capacity, and officer travel is becoming more common with the ending of COVID 19 lockdown polices, spending capacity limits on the card are becoming constraining to normal orders of business,

WHEREAS Co-mingling of operational use and Executive use occurs on specific cards that creates additional efforts to maintain accounting separation as card use increases and a need has been shown for a third card to devote to operational use and for an increase in the credit limit.

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

Section 1. Amend the Policy to allow for a third card to be issued and controlled by the Senior Finance Manager, with all controls, responsibilities, and usage rules applied to this card as it is with other cards.

Section 2. Amend the policy for additional controls on the Senior Finance Manager card for functional lead level approval prior to any transaction and Executive review of charges post-transaction.

Section 3. Amend the Policy to allow for card account limit to be increased to \$60,000 maximum per month.

ADOPTED AND APPROVED this 16th day of November, 2022.

Dianne Martinez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



CREDIT CARD USE AND CONTROLS POLICY, FIRST AMENDMENT

Policy Number: 16.1
Approval Date: 11/16/2022
Agenda Item: XX
Approved by Resolution:

1. PURPOSE:

The purpose of this Policy is to set guidelines for the usage and payment of business expenditures from the Corporate Credit Cards (Cards). This Policy is not intended to override the Administrative Procurement Policies and use of the Cards shall be in accordance with these policies.

2. RESPONSIBLE PARTIES:

The COO/Treasurer is responsible for ensuring uniform policies and procedures are followed for EBCE's Credit Card Policy.

3. SCOPE

The Policy applies to all the Corporate Credit Cardholders of East Bay Community Energy (EBCE).

4. CONTROLS OVER CARD

1. Cards will be issued only to the CEO, the COO/Treasurer, and the Senior Finance Manager.
2. At least one card controlling member will review and approve the monthly statements before the cards are paid irrespective of the account balance.
3. The use of the card shall only be used for business-related expenditures and shall not be used for personal expenses or cash withdrawals.
4. The account will have a standard monthly credit limit of \$60,000.
5. A lost or stolen card must be reported as soon as it is discovered as missing.



5. CARD USAGE

The proper name of the cardholder will be embossed on the card along with “East Bay Community Energy”. The card is valuable property which requires proper treatment by the cardholder to protect it from misuse by unauthorized parties. The cardholder is required to activate (as per instructions received with the card) and sign the card immediately upon receipt. The card may be used upon activation. When a new card is issued to the cardholder, it is the cardholder’s responsibility to destroy the previous card (cut it in pieces) and discard. If the cardholder’s employment is terminated for any reason, the card will be immediately cancelled upon notice of termination. Senior Finance Manager

Eligible uses of the card include:

1. Refreshments and meals for outreach events and meetings
2. Conference registration
3. Travel arrangements (ex: airfare, car rental, train fare and hotels)
4. Certain marketing and social media expenses
5. Recurring payment of data or industry news subscriptions
6. Urgent office supplies and maintenance
7. Cell phone purchases and monthly cell phones service

All expenses must be in accordance with the Board approved expenses established in the approved budget.

The card may not be transferred to, assigned to, or used by anyone other than the designated cardholder. Amex or EBCE may, at any time, suspend or cancel the cardholder’s privileges for any reason and the cardholder will surrender the credit card to the CEO, COO/Treasurer, or Senior Finance Manager upon request. The cardholders should attempt to keep the use of the card to a minimum.

Employees are NOT permitted to use the card for personal expenses. Any rewards earned on card will belong to EBCE and will be used to buy down the balance of the account periodically or be used to reduce cost of qualifying new purchases as permissible.



6. SAFEGUARD OF CARD

1. The cardholder is required to ensure proper safeguard of the card by:
Securely keeping the card in his/her possession, signing the back of the card, and destroying an expired or replaced card
2. Ensuring that only the last four digits of the card number appear on any printed document

7. EXPENSES ACCOUNTING, REPORTING AND PAYMENT

1. The cardholder is required to obtain and submit the original invoices/receipts for all purchases. Missing receipts will require a formal review and notice process. In addition to receipts, the employee requesting use for an approved purchase shall provide prior to the transaction:
 - i. A description of the business purpose
 - ii. In the case of meals or conferences, who was in attendance
 - iii. In the case of travel, travel dates
2. Any transaction with missing documentation requires a written explanation for the missing documentation, and must include the vendor name, date, description of purchase, and reason for the missing documentation.
3. The cardholder is responsible for submitting the invoices/receipts of all transactions to COO/Treasurer and the Senior Finance Manager within 5 business days of incurring the transaction or receiving the invoice/receipt.
4. The Senior Finance Manager is responsible for downloading the monthly statement for all the cards, matching the invoices/receipts to the charges in the statement, ensuring the accounting of every charge in the appropriate period, and the making payment by the statement due date.
5. The Senior Finance Manager will review monthly statements and documentation for completeness and process payment approval from direct supervisor and Treasurer. In the case of the Senior Finance Manager's expenses, the Treasurer or CEO will review and sign off on such expenses. In the case of the Treasurer's expenses, the CEO will review and sign off on such expenses. In the case of the CEO's



expenses, the expenses will be provided to the Chair of the Board for review and approval. However, EBCE will not await approval to make payment of credit card expenses.

8. POLICY ENFORCEMENT

1. Employees are NOT permitted to use the card for personal expenses for any reason. Failure to abide by this provision could result in disciplinary actions, up to and including termination of employment.
2. Any willful intent to disregard the policy will result in revocation of the card and could result in disciplinary actions, up to and including termination of employment.



Staff Report Item 9

TO: East Bay Community Energy Board of Directors

FROM: Jim Dorrance, Power Resources Manager

SUBJECT: Energy Storage Agreement Amendment (Action)

DATE: November 16, 2022

Recommendation

Adopt a Resolution authorizing the Chief Executive Officer (CEO) to negotiate and execute an Amendment to an existing Energy Storage Agreement (ESA) with Tumbleweed Energy Storage LLC.

Background and Discussion

East Bay Community Energy (EBCE) executed an ESA with Tumbleweed Energy Storage LLC on September 20th, 2021. This project was evaluated during EBCE's 2020 Renewable Energy and Storage Request for Offers (RFO) and was approved for execution during EBCE's Board of Directors meeting on June 16th, 2021. The details of the Tumbleweed project are below:

15-year 50MW/200MWh lithium-ion battery storage project based in Kern County, June 2024 online date with Tumbleweed Energy Storage (Seller), LLC, developed by REV Renewables, a subsidiary of LS Power.

At the time of contract execution, Tumbleweed was only able to provide 46 MW of Resource Adequacy value. EBCE is negotiating two changes to the contract: first, additional RA from the project that will benefit EBCE's RA obligation during the contract term; Second, EBCE is negotiating an option right to increase the battery's duration from 4-hour duration to 8-hour duration, making the resource eligible to meet compliance obligations for the procurement of long-duration energy storage. The price for the option right to increase battery duration would be tied to actual cost to build and install the battery, to be calculated at time of component ordering.

EBCE is asking the Board to Authorize the CEO to continue these negotiations and when complete execute an amendment that is beneficial to EBCE but allows for sufficient cost relief to the Seller to allow the project to be built by the online date.

Fiscal Impact

Part 1, Increasing RA Capacity: The amendment will increase project cost by approximately 6%.

Part 2, Option to Increase Battery Duration: The fiscal impact of the amendment cannot be calculated at this time. Prior to triggering of the option, EBCE staff will have access to publicly available component indices to inform the timing and decision of whether or not to act upon the option.

Attachments

- A. Resolution Authorizing the CEO to Negotiate and Execute an Amendment to an Existing Energy Storage Agreement with Tumbleweed Energy Storage LLC

RESOLUTION NO. R-2022-XX

A RESOLUTION OF THE BOARD OF DIRECTORS

**OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO
NEGOTIATE AND EXECUTE AN AMENDMENT TO AN ENERGY STORAGE AGREEMENT
THAT HAS BEEN EXECUTED WITH TUMBLEWEED ENERGY STORAGE LLC**

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 has executed an Energy Storage Agreement with Tumbleweed Energy Storage LLC, on September 20th, 2021, for an energy storage project; and

WHEREAS, the project is a 50MW/200MWh lithium-ion battery storage project based in Kern County; and

WHEREAS, the project is expected to be operational by June 1, 2024, for a term of 15-years; and

WHEREAS, EBCE has negotiated with the Seller to find an equitable path to allow the project to come online by the agreed to date.

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

Section 1. The CEO is hereby authorized to negotiate and execute an Amendment to an existing Energy Storage Agreement with Tumbleweed Energy Storage LLC.

ADOPTED AND APPROVED this 16th day of November, 2022.

Dianne Martinez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



Staff Report Item 10

TO: East Bay Community Energy Board of Directors

FROM: Nick Chaset, Chief Executive Officer

SUBJECT: Amendment of Consulting Services Agreement with Komorous-Towey Architects for architectural and engineering services

DATE: November 16, 2022

Recommendation

Approve a Resolution that delegates authority to the CEO to negotiate and execute a First Amendment to the Consulting Services Agreement (Agreement) with Komorous-Towey Architects. The Amendment would expand the architectural scope of work for the build of EBCE's headquarters at 251 8th Street in Oakland and would increase the compensation by \$474,012 for a total amount not to exceed \$1,074,012.

Background and Discussion

In January 2022, EBCE issued a Request for Qualifications for architectural services to Alameda County's General Service Agency's pre-qualified architectural firms. Through this solicitation process, EBCE received two responses. EBCE selected Komorous-Towey Architects (KTA), headquartered in the Bay Area with offices in Oakland and having extensive experience working in Alameda County.

EBCE staff is seeking authority to amend the Agreement to expand the architecture and engineering work. The scope of work will progress from the feasibility and schematic phases to design development, permitting, and construction phases. The increase in cost is due to the original scope of work being generic to accommodate limited information on building conditions and evolving understanding on what the office space was to become. KTA requires additional fees to complete the design and assist with construction administration as the project progressed.

Changes to the original scope include, but are not limited to the following:

- Window replacements
- Building HVAC system replacement
- Removal of structural columns
- Structural upgrades to seismic systems
- Corrections required to meet Building Code
- Replacement of roof membrane and the addition of roof insulation
- LEED certification consultation

Fiscal Impact

The original Resolution adopted in February 16, 2022 authorized the CEO to negotiate and execute a Consulting Services Agreement for an amount ranging between \$400,000 and \$600,000, while the original CSA had a maximum compensation for \$400,000. The CEO still has authority to add another \$200,000 as provided by the Resolution the Board approved in February 2022, however, more funds are required to cover the costs of the work that the space requires.

The Amendment will increase the compensation by \$474,012 for a total amount not to exceed \$1,074,012.

Attachments

- A. Resolution Authorizing the CEO to Negotiate and Execute a First Amendment to the CSA with Komorous-Towney Architects

RESOLUTION NO. __

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO
NEGOTIATE AND EXECUTE A FIRST AMENDMENT TO THE CONSULTING SERVICES
AGREEMENT WITH KOMOROUS-TOWNEY ARCHITECTS**

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 has purchased an office building at 251 8th Street, Oakland, that requires renovations to be utilized;

WHEREAS EBCE issued a Request for Qualifications (RFQ) in January 2022 for architectural services to all five vendors from Alameda County’s General Service Agency list of pre-qualified architectural firms with the intent of finding a qualified firm to provide renovation services for the 251 8th Street office building;

WHEREAS EBCE selected the vendor Komorous-Towey Architects and executed a Consulting Services Agreement effective March 14, 2022, for architecture and engineering services;

WHEREAS The original Resolution dated February 16, 2022 authorized the CEO to negotiate and execute a Consulting Services Agreement for an amount ranging between \$400,000 and \$600,000, and a CSA was executed with maximum compensation of \$400,000. The CEO has existing authority to add another \$200,000 from the resolution in February 2022; and

WHEREAS EBCE desires to expand the scope of work under the original Consulting Services Agreement requiring an additional \$474,012 in total compensation, beyond the previously authorized \$600,000, in order to complete the additional work.

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

Section 1. The CEO is authorized to negotiate and execute a First Amendment to the Consulting Services Agreement with Komorous-Towey Architects to expand the scope of services and to increase the compensation by \$474,012 for a total amount not to exceed \$1,074,012.

ADOPTED AND APPROVED this 16 day of November, 2022.

Dianne Martinez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



Consent Item 11

TO: East Bay Community Energy Board of Directors

FROM: Nick Chaset, Chief Executive Officer

SUBJECT: Amendment of Consulting Services Agreement with Sixth Dimension for design and construction management services

DATE: November 16, 2022

Recommendation

Approve a Resolution delegating authority to the CEO to negotiate and execute a Second Amendment to the Consulting Services Agreement with Sixth Dimension to expand the scope of work to include design and construction management services for the build of EBCE's headquarters at 251 8th Street in Oakland, to increase the compensation by \$171,686 for a total amount not to exceed \$388,486, and to extend the termination date to December 31, 2023.

Background and Discussion

In the fall of 2021, EBCE issued a Request for Proposal for property management and construction management services. Through this solicitation, EBCE selected Sixth Dimension - an Oakland, CA based, Alameda County Small, Local and Emerging certified Business ("SLEB"), to provide on-going property management and construction management services for the design and build out of EBCE's headquarters. In December 2021, EBCE entered into the initial phase of the Consulting Services Agreement with Sixth Dimension focused on the property management scope of work and support selecting an architect to design the interior of 251 8th St. At the time, EBCE staff elected not to include a scope of work related to the design and construction of 251 8th St.

In March 2022, the Board approved a resolution authorizing a First Amendment to the Consulting Services Agreement adding additional services to the scope of work,

increasing the total compensation, and extending the term of the agreement to June, 30, 2023.

With Komorous-Towey Architects under contract, staff have a better understanding of the schedule and scope of construction and find it necessary to increase the compensation for Sixth Dimension, the project construction manager. This increase in funding will cover payment of sub consultant services needed to assist with design and preconstruction, including industrial hygienist services, commissioning services, CALGreen inspection services, and material testing services. Staff also recommends extending the termination date of this agreement from June 30, 2023 to December 31, 2023.

Fiscal Impact

The amended CSA will increase the compensation by \$171,686 for a total amount not to exceed \$388,486.

Attachments

- A. Resolution Authorizing the CEO to Negotiate and Execute a Second Amendment to the Consulting Services Agreement with Sixth Dimension.

RESOLUTION NO. __

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO
NEGOTIATE AND EXECUTE A SECOND AMENDMENT TO THE CONSULTING SERVICES
AGREEMENT WITH SIXTH DIMENSION**

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 in the Fall of 2021, EBCE issued a Request For Proposals for property management and construction management services;

WHEREAS EBCE selected the vendor Sixth Dimension and executed a Consulting Services Agreement (“Agreement”) effective November 30, 2021, for construction management services;

WHEREAS on March 16, 2022, the Board authorized an amendment for the Agreement adding additional services related to design and construction management services for the architect that will be improving 251 8th Street, Oakland; and

WHEREAS EBCE now requires additional services, and more time, to assist with design and preconstruction that will be improving the 251 8th Street, Oakland office.

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

Section 1. The CEO is authorized to negotiate and execute a Second Amendment to the Consulting Services Agreement with Sixth Dimension to expand the scope of services, to increase the compensation by \$171,686 for a total amount not to exceed \$388,486 and to extend the termination date to December 31, 2023.

ADOPTED AND APPROVED this 16 day of November, 2022.

Dianne Martinez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



CEO Report Item 12

TO: East Bay Community Energy Board of Directors
FROM: Nick Chaset, Chief Executive Officer
SUBJECT: CEO Report (Informational Item)
DATE: November 16, 2022

Recommendation

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

Executive Committee Meeting

An Executive Committee meeting was held on Friday, October 28 at 12pm. Members received presentations and discussed the Health-E Communities Partnership and the Municipal Electrification Financing Program. The next meeting is scheduled for Friday, December 2, 2022 at 12pm.

Finance, Administration and Procurement Subcommittee Meeting

A Finance, Administration and Procurement Subcommittee Meeting was held on November 4, 2022 at 10am. Members received presentations and discussed the Budget to Actuals Report for FY 2021-2022, Reserve Fund Contributions, and an amendment to EBCE's Credit Card Use and Controls Policy. The date for the next FAP Subcommittee meeting is TBD.

Marketing Regulatory and Legislative Subcommittee Meeting

A Marketing, Regulatory and Legislative Subcommittee meeting was held on November 4, 2022 at 12pm. Members received updates about Marketing and Accounts Services including preparation for Stockton incorporation, Programs Marketing for Resilient Homes and Health-e Homes and preparations for the January PG&E Rate Changes. Members also received and presentation and discussed the Federal Inflation Reduction Act of 2022. The date for the next MRL Subcommittee meeting is TBD.

New Staff

Alvin Lin - Account Services Analyst

Alvin joined the Marketing and Account Services Team on 10/31/2022 as the Account Services Analyst.

Prior to joining EBCE, worked as a Staff Geotechnical Engineer at a Civil and Environmental Consulting Company for about 4 years, where he performed engineering analysis, work on proposal efforts and lead field explorations. There, he worked on many data projects for an energy and utility client, where he developed an interest in data and energy. This prompted him to pursue a career change, leading him to join EBCE.

Alvin obtained a B.S. in Civil Engineering at UC Davis. In his free time, he likes to go rock climbing, hiking, camping and backpacking.

Marketing and Account Services Update

Renewable 100 Transition

Customers in Berkeley, Dublin, Emeryville, and San Leandro transitioned to Renewable 100 over October. Customers will see charges for Renewable 100 service on their February bills. We saw similar trends as seen in other default product transitions, with a minimal number of customers opting out and customers utilizing the ability to remain on the Bright Choice discounted product.

City	Customer Segment
Berkeley	Commercial only (Residential in March 2022)
Dublin	Commercial only (Residential in January 2022)
Emeryville	Residential and Commercial
San Leandro	Commercial only (Residential in March 2022)

Jurisdiction	Customer Class	Enrolled Count	Opted Out Count	Change from early August	Change from early August %	Remain on Bright Choice	Change from early August	Change from early August %
Berkeley	non-residential	5,201	234	9	0.2%	129	112	2.2%
Dublin	non-residential	2,282	111	0	0.0%	103	101	4.4%
Emeryville	residential	7,333	201	20	0.2%	158	156	2.1%
	non-residential	1,004	112	8	1%	32	32	3.2%
San Leandro	non-residential	4,120	208	10	0.3%	61	56	1.4%



Staff Report Item 14

TO: East Bay Community Energy Board of Directors

FROM: Nick Chaset, Chief Executive Officer

SUBJECT: Health-E Communities Partnership Program Development
(Action Item)

DATE: November 16, 2022

Recommendation

Direct EBCE Staff to develop a program proposal to deploy \$15,000,000 in local development funds to deliver home electrification to households where one or more residents suffers from asthma. Program design parameters for staff to consider shall include:

1. Up to \$15m in Local Development funds allocated over 3 years to fund home electrification
2. Program shall explicitly seek to target electrification measures into households where one or more residents has asthma
3. Program shall prioritize low-income households and multi-family housing
4. Program shall seek to demonstrate the role that electrification can play in improving indoor air quality and ameliorating public health outcomes for program participants
5. EBCE staff shall seek to partner with one or more healthcare providers (HPs) (ex: hospital, federally qualified health clinic, public health agency) to design and deliver the program to households where their asthma patients reside
6. EBCE shall support its healthcare partners research into the long-term health benefits to program participants of residential electrification
7. EBCE staff shall seek to coordinate and partner with other local government agencies (ex: StopWaste) to design and deliver this program

EBCE staff shall bring a full program proposal including clearly defined goals, detailed budget and partners to the Board of Directors for consideration and approval prior to launching the program.

Background and Discussion

East Bay Community Energy's Local Development Business Plan calls for targeted investments in electrification measures and projects that have the ability to improve indoor air quality and public health outcomes. While EBCE has been working to implement a number of

residential electrification programs, EBCE's current budget surplus has created an opportunity to set aside a significant amount of funding to support a transformational set of investments in electrification to demonstrate at scale the role that home electrification can play in reducing indoor air pollution and improving health outcomes. To this end, EBCE staff is seeking direction from the Board of Directors to move forward to design a program that explicitly seeks to target electrification projects in households where one or more residents suffers from acute asthma. To do so, EBCE staff will partner with local public health agencies, clinics and hospitals to recruit program participants from their patient populations. EBCE will also seek to support research by these health care providers - and other partners - to demonstrate the public health benefit of deploying electrification into households where residents have asthma.

EBCE staff - and partners - will develop a comprehensive program proposal for EBCE Board consideration in 2023.

Fiscal Impact

Board direction to staff to develop a program would require staff and attorney time, with only nominal fiscal impact. Staff's proposal to the Board with respect to final program approval would include a detailed analysis of the fiscal impacts of the program.

Attachments

- A. Health-E Communities Partnership Overview Presentation

Health-E Communities Partnership



Health-E Communities Partnership Goals

Attachment Staff Report Item 14A

- Deliver +1,000 home electrification retrofits into households where one or more resident suffers from asthma w/ explicit emphasis on low-income and disadvantaged communities
- Establishment necessary partnerships to reach these households
- Pair home electrification program with necessary research to support scaling up home electrification as a part of public health response to Asthma and pulmonary disease
- Serve as a scalable demonstration project for intersectionality of home electrification and public health

Health-E Communities Partnership: Aligning EBCE Scope with EBCE Expertise

Attachment Staff Report Item 14A

- Focus EBCE funding and engagement on funding electrification retrofits (induction cooking, heat pumps)
- Recruit partners that can leverage external funding to support research goals, customer/community engagement, integration of home electrification into public health services and scaling of program learnings
- Bring in external funding partners (ex: U.S. EPA, U.S. HHS, CA ARB, Health/Climate philanthropy) to fund costs of public health partner participation in program

Health-E Communities Partnership Framework

Attachment Staff Report Item 14A

Board Action: Direct EBCE staff to move forward to develop a full proposal to implement Health-E Communities Partnership with EBCE funding up to \$15m towards home electrification projects that benefit residents with asthma – over the next 3 year – and return to the Board of Directors for review and approval of the full proposal in 2023

Allocate up to \$15m to fund residential electrification projects (e.g. induction cooking, heat pumps) for households where one or more residents suffers from asthma.

- Why \$15m? \$15m aligns with current EBCE Health-E Homes program incentive and loan levels (up to \$10k for incentives and \$5k per household in low interest loans) when scaling target participation to 1,000 participants. This funding level was also analyzed during the budget setting process and determined to be fiscally feasible

Other Program Parameters

Prioritize funding in low-income households and multi-family housing

Establish partnerships with ecosystem of electrification equipment and deployment partners to enable project deployments

Establish partnerships with local, state and federal agencies working at the nexus of public health, asthma care and home electrification to support all phases of this project

Establish partnerships with one or more public health partners to support acquisition of their patients into program

Establish partnerships with one or more PHPs to design and implement a coordinated research program to evaluate long term benefits of home electrification for asthma patients

Support efforts by PHPs to secure necessary funding to participate in Health-E Communities Partnership



Staff Report Item 15

TO: East Bay Community Energy Board of Directors

FROM: Jason Bartlett, Finance Manager

SUBJECT: FY 2021-22 Audited Financial Statements (Informational Item)

DATE: November 16, 2022

Recommendation

Accept and file the Fiscal Year 2021-2022 audited financial statements

Background and Discussion

EBCE hires an independent auditor to verify the annual financial statements each year. In June of 2019, EBCE selected Pisenti & Brinker, LLP (P&B) as the Authority's auditor through a formal RFP. They were EBCE's auditor the previous year and their familiarity with EBCE and CCA finance space made them the best choice.

This year's audit focuses on EBCE's financial activities of the fiscal year dating from July 1, 2021, to June 30, 2022.

P&B engaged with an ad-hoc committee of board members throughout the audit process and was assisted by EBCE staff.

The final audited financial statements provide an independently verified, accurate portrait of EBCE's financial position as of June 30, 2022. These financial statements include EBCE's financial activities related to:

- Net Position
- Revenues, Expenses, and Changes in Net Position
- Cash Flows
- Accompanying Notes and Subsequent Activities

Highlights from the Statements for the fiscal year include:

Statements of Net Position (Balance Sheet)

- Total Assets increased from \$241.3MM to \$344.8MM
 - Primarily as increase in cash and equivalents, accrued revenue, and account receivables
 - GASB-62 fund maintained at \$15.8MM of deferred revenues
- Total Liabilities increased from \$53.5MM to \$96.5 million due to increases in outstanding energy costs and security deposits held from counter parties
- Total Net Position increased from \$171.9MM to \$232.5MM as driven by the changes mentioned above for assets and liabilities
 - $\text{Net Position} = \text{Assets} - \text{Liabilities} - \text{Deferred Revenue}$
- No debt was issued in the fiscal year

Statements of Revenue, Expenses, and Changes in Net Position (Income Statement)

- Net Operating Revenue was approximately \$555.3MM, with \$14.7MM from power purchase agreement reparations
- Operating Expenses were approximately \$501.9MM, with \$474.6MM in Cost of Electricity
- EBCE received \$7.2MM from non-operating activities as related to CAPP grant payment, interest earned on holdings, and interest paid on commitments
- Change in Net Position was \$60.6MM
 - $\text{Change in Net Position} = \text{Operating Revenue} - \text{Operating Expenses} + \text{Net Non-operating Activities}$

Fiscal Impact

This report has no fiscal impact.

Attachments

- A. EBCE's Audited Financial Statements June 30, 2022
- B. Presentation from the Auditor, Pisenti & Brinker



THE EAST BAY'S PUBLIC POWER AGENCY

Financial Statements

Years ended June 30, 2022 and June 30, 2021
with Independent Auditor's Report



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*At right: EBCE's Luciana solar
project in Tulare County, CA*

TABLE OF CONTENTS

Independent Auditor's Report	1
Management's Discussion and Analysis	4
Basic Financial Statements:	
Statements of Net Position	11
Statements of Revenues, Expenses and Changes in Net Position	12
Statements of Cash Flows	13
Notes to the Basic Financial Statements	15
Supplementary Information:	
Schedule of Expenditures of Federal Awards	25
Notes to Schedule of Expenditures of Federal Awards	26
Compliance:	
Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance With Government Auditing Standards	27
Report on Compliance for Each Major Federal Program and Report on Internal Control Over Compliance Required by the Uniform Guidance	29
Schedule of Findings and Questioned Costs	32



Independent Auditor's Report

To the Board of Directors
East Bay Community Energy Authority
Oakland, California

Report on the Audits of the Financial Statements

Opinion

We have audited the accompanying financial statements of East Bay Community Energy Authority (EBCE), as of and for the years ended June 30, 2022 and 2021, and the related notes to the financial statements, which collectively comprise EBCE's basic financial statements as listed in the table of contents.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of EBCE as of June 30, 2022 and 2021, and the changes in financial position and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audits of the Financial Statements section of our report. We are required to be independent of EBCE and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about EBCE's ability to continue as a going concern for 12 months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

Independent Auditor's Report (continued)

Auditor's Responsibilities for the Audits of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and *Government Auditing Standards*, we

- Exercise professional judgment and maintain professional skepticism throughout the audits.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audits in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of EBCE's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about EBCE's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audits, significant audit findings, and certain internal control-related matters that we identified during the audits.

Independent Auditor's Report (continued)**Required Supplementary Information**

Accounting principles generally accepted in the United States of America require that management's discussion and analysis be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Supplementary Information

Our audits were conducted for the purpose of forming an opinion on the financial statements that collectively comprise EBCE's basic financial statements. The schedule of expenditures of federal awards, as required by Title 2 U.S. *Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) and the related notes to the schedule of expenditures of federal awards, are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audits of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the schedule of expenditures of federal awards is fairly stated, in all material respects, in relation to the basic financial statements as a whole.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated October 27, 2022, on our consideration of EBCE's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to solely describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of EBCE's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering EBCE's internal control over financial reporting and compliance.



Santa Rosa, California
October 27, 2022

**EAST BAY COMMUNITY ENERGY AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEARS ENDED JUNE 30, 2022 AND 2021**

The Management's Discussion and Analysis provides an overview of East Bay Community Energy Authority's (EBCE) financial activities as of and for the years ended June 30, 2022 and 2021. The information presented here should be considered in conjunction with the audited financial statements.

BACKGROUND

The formation of EBCE was made possible in 2002 by the passage of California Assembly Bill 117, enabling communities to purchase power on behalf of their residents and businesses and creating competition in power generation.

EBCE was created as a California Joint Powers Authority (JPA) effective December 1, 2016, and was established to provide electric power at competitive costs as well as provide other benefits within Alameda County, including reducing greenhouse gas emissions related to the use of power, procuring energy with a priority on the use and development of local renewable resources, stimulating local job creation through various programs and development, promoting personal and community ownership of renewable resources, as well as promoting long-term electric rate stability and energy reliability for residents and businesses. Governed by a board of directors (Board) consisting of elected representatives from each jurisdiction, EBCE has the rights and powers to set rates for the services it furnishes, incur indebtedness, and issue bonds or other obligations. EBCE is responsible for the acquisition of electric power for its service area.

In June 2018, EBCE began providing service to its first approximately 55,000 customer accounts as part of its initial enrollment phase. This initial phase included municipal and business accounts. The next major enrollment of residential accounts began in November 2018, which added approximately 500,000 accounts. In April 2021, EBCE expanded their service territory by adding approximately 80,000 accounts. As of June 30, 2022, EBCE had approximately 640,000 customers enrolled.

**EAST BAY COMMUNITY ENERGY AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEARS ENDED JUNE 30, 2022 AND 2021**

Financial reporting

EBCE presents its financial statements as an enterprise fund under the economic resources measurement focus and accrual basis of accounting, in accordance with Generally Accepted Accounting Principles (GAAP) for proprietary funds, as prescribed by the Governmental Accounting Standards Board (GASB).

Contents of this report

This report is divided into the following sections:

- Management's discussion and analysis, which provides an overview of the financial operations.
- The basic financial statements:
 - The *Statements of Net Position* include all of EBCE's assets, liabilities, deferred inflows, and net position, and provides information about the nature and amount of resources and obligations at a specific point in time.
 - The *Statements of Revenues, Expenses, and Changes in Net Position* report all of EBCE's revenues and expenses for the years shown.
 - The *Statements of Cash Flows* report the cash provided and used by operating activities, as well as other sources and uses, such as capital asset acquisitions and non-capital financing activities.
 - The notes to the Basic Financial Statements, which provide additional details and information related to the basic financial statements.

**EAST BAY COMMUNITY ENERGY AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEARS ENDED JUNE 30, 2022 AND 2021**

FINANCIAL HIGHLIGHTS

The following table is a summary of EBCE's assets, liabilities, and net position, and a discussion of significant changes for the years ended June 30:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Current assets	\$ 319,677,508	\$ 218,280,050	\$ 207,412,111
Noncurrent assets			
Capital assets, net of depreciation	8,760,016	115,816	148,053
Other noncurrent assets	16,356,858	22,855,208	12,821,208
Total noncurrent assets	<u>25,116,874</u>	<u>22,971,024</u>	<u>12,969,261</u>
Total assets	<u>344,794,382</u>	<u>241,251,074</u>	<u>220,381,372</u>
Current liabilities	<u>96,450,766</u>	<u>53,525,550</u>	<u>57,899,438</u>
Total liabilities	<u>96,450,766</u>	<u>53,525,550</u>	<u>57,899,438</u>
Deferred inflows of resources	<u>15,814,000</u>	<u>15,814,000</u>	<u>12,680,000</u>
Net position			
Invested in capital assets	8,760,016	115,816	148,053
Restricted for collateral	9,000,000	10,000,000	11,000,000
Unrestricted	214,769,600	161,795,708	138,653,881
Total net position	<u>\$ 232,529,616</u>	<u>\$ 171,911,524</u>	<u>\$ 149,801,934</u>

Current assets

Current assets were approximately \$319,678,000 at the end of 2022 and are mostly comprised of cash of \$152,215,000, accounts receivable of \$79,814,000, accrued revenue of \$47,590,000, prepaid expenses of \$8,728,000, and restricted cash of \$9,000,000. The current asset accounts increased in 2022 as a result of operating surpluses.

Capital assets

Capital assets are reported net of depreciation. EBCE does not own assets used for electricity generation or distribution. In September 2021, EBCE purchased an office building at 251 8th Street in Oakland to be used for its future headquarters. The cost of the building and land was approximately \$8,500,000 and was under renovation as of June 30, 2022. Presently, the cost of the building and land is classified on the Statement of Net Position as "land and construction-in-progress". When renovation is complete, the building will be depreciated over its estimated remaining useful life of 30-years.

**EAST BAY COMMUNITY ENERGY AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEARS ENDED JUNE 30, 2022 AND 2021**

Other noncurrent assets

Included in other noncurrent assets as of June 30, 2022, and June 30, 2021, is \$15,814,000 in its Rate Stabilization Fund to be used in later years when financial results are stressed. By deferring revenue to be used in future years, EBCE will be better able to avoid sudden rate increases to address unanticipated spikes in energy costs and other unforeseen circumstances.

Also included in noncurrent assets at June 30, 2021, was \$7,000,000 in restricted cash that is collateral on a credit facility that expires in January 2023. This restricted amount is grouped with current assets for the year ended June 30, 2022.

EBCE agreed to loan \$1,000,000 to BlocPower Energy Services (the borrower), a Delaware limited liability company. The borrower assists low to moderate income customers and landlords by providing energy-efficient electrical equipment and installation with limited upfront costs and long-term payment options. The amount of the loan funded as of June 30, 2022 is \$500,000.

Current liabilities

Current liabilities consist mostly of the cost of electricity delivered to customers that is not due to be paid by EBCE until after year-end. Other components include trade accounts payable, taxes and surcharges due to other governments, and various other accrued liabilities.

Current liabilities increased from 2021 to 2022 due to an increase in accrued cost of electricity and an increase in security deposits. Accrued cost of electricity increased in 2022 due to rising prices fueled by volatility in the energy market. Also relating to market volatility, EBCE required more energy suppliers to post security deposits in 2022 than in 2021 to help ensure contracted energy products would be delivered.

Deferred inflows of resources

Included in deferred inflows of resources at June 30, 2022 and June 30, 2021, is \$15,814,000 in a Rate Stabilization Fund to be used and recorded as revenue in later years when financial results are stressed.

**EAST BAY COMMUNITY ENERGY AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEARS ENDED JUNE 30, 2022 AND 2021**

The following table is a summary of EBCE's results of operations and a discussion of significant changes for the years ended June 30:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Operating revenues	\$ 555,332,546	\$ 423,502,860	\$ 463,381,478
Nonoperating revenues	7,901,267	-	-
Investment income	<u>221,757</u>	<u>636,395</u>	<u>1,357,175</u>
Total income	563,455,570	424,139,255	464,738,653
Operating expenses	501,933,974	401,160,053	395,567,000
Nonoperating expenses	<u>903,504</u>	<u>869,612</u>	<u>743,178</u>
Total expenses	<u>502,837,478</u>	<u>402,029,665</u>	<u>396,310,178</u>
Change in net position	<u>\$ 60,618,092</u>	<u>\$ 22,109,590</u>	<u>\$ 68,428,475</u>

Operating revenues

In April 2021, EBCE expanded its service territory to include an additional 80,000 customer accounts. The year ended June 30, 2022, is the first full year with the expanded customer accounts and is the main reason for the increase in operating revenues.

Nonoperating revenues

The nonoperating revenue increase is primarily the result of grant income from the California Arrearage Payment Plan (CAPP) that was received in 2022.

Operating expenses

EBCE's largest expense each year was the purchase of electricity delivered to customers. EBCE procures energy from a variety of sources and focuses on maintaining a balanced renewable power portfolio at competitive costs to its customers. Expenses for staff compensation, contract services, and other general and administrative expenses increased each year as the organization continued to grow to support its business demands. EBCE had sufficient revenues each year to meet its operating expense obligations.

The cost of electricity increased each year as a result of service territory expansion and overall higher market prices.

Nonoperating expenses

Nonoperating expenses represent interest and fees related to letters of credit and the unused portion of the credit facility.

Attachment Staff Report Item 15A

**EAST BAY COMMUNITY ENERGY AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEARS ENDED JUNE 30, 2022 AND 2021**

ECONOMIC OUTLOOK

California Independent System Operator (CAISO) system power prices experienced volatility through the year ended June 30, 2022. This level of volatility was somewhat consistent with year-to-year historical volatility that occurs due to seasonal and annual weather changes and was also characterized by a marked increase in energy prices from historical levels. This was due to more extreme weather events, energy infrastructure capacity constraints in CAISO, and geopolitical considerations in the natural gas industry.

In February 2022, Russia invaded Ukraine, which caused global energy prices to spike dramatically. Although occurring in Europe, this conflict disrupts global natural gas distribution, supply, and demand, and as such does influence California markets. While some effects of this were forecasted, this event did increase gas market price volatility more so and persists at the time of this audit. Hedges EBCE has in place will offset much of the immediate price spike impacts, but we are currently experiencing a rising energy price environment for the foreseeable future. As rates are currently set as a discount to PG&E, EBCE expects to continue to remain competitive, and is seeing a significant increase in revenues.

While the COVID-19 pandemic is ongoing, energy loads were in line with forecasts and budget and in general energy use activity has returned to pre-pandemic patterns. Customer account aging has stabilized and recovery efforts through State and Federal funding have reduced overall aging impacts from shelter-in-place policies.

EBCE has in place a formal risk management policy that includes guidance on target hedge levels. Energy hedging is intended to reduce the financial risk of unexpected price surges by procuring a significant portion of future energy at fixed prices. The target hedge percentages depend on factors including time and the hedge pricing relative to historical energy costs. In general, EBCE targets hedging 60-100% of its exposure in energy products on a short-duration basis of under a year and aims to hedge greater than 80% of its exposure going into any particular month. EBCE has complied with its risk management policy and regulations

Year-over-year, EBCE has retained a strong customer and revenue base with low opt-out levels. EBCE continues to be actively engaged on legislative and regulatory matters that can impact EBCE's energy procurement requirements and, therefore, energy-related expenditures. This provides some level of additional certainty on EBCE revenues.

**EAST BAY COMMUNITY ENERGY AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEARS ENDED JUNE 30, 2022 AND 2021**

REQUEST FOR INFORMATION

This financial report is designed to provide EBCE's customers and creditors with an overview of the organization's finances and to demonstrate EBCE's accountability for the funds under its stewardship.

Please address any questions about this report or requests for additional financial information to 1999 Harrison Street, 8th Floor, Oakland, CA 94612.

Respectfully submitted,

Nick Chaset, Chief Executive Officer

BASIC FINANCIAL STATEMENTS

EAST BAY COMMUNITY ENERGY AUTHORITY
STATEMENTS OF NET POSITION
AS OF JUNE 30, 2022 AND 2021

	2022	2021
ASSETS		
Current assets		
Cash and cash equivalents	\$ 152,215,061	\$ 129,847,706
Accounts receivable, net of allowance	79,814,399	43,911,325
Accrued revenue	47,590,010	27,952,207
Market settlements receivable	-	5,025,939
Other receivables	6,302,352	708,188
Prepaid expenses	8,728,326	6,247,325
Deposits	16,027,360	1,587,360
Restricted cash	9,000,000	3,000,000
Total current assets	319,677,508	218,280,050
Noncurrent assets		
Unrestricted cash and cash equivalents in Rate Stabilization Fund	15,814,000	15,814,000
Restricted cash	-	7,000,000
Deposits	42,858	41,208
Loan receivable	500,000	-
Capital assets:		
Land and construction-in-progress	8,605,533	-
Capital assets, net of depreciation	154,483	115,816
Total capital assets	8,760,016	115,816
Total noncurrent assets	25,116,874	22,971,024
Total assets	344,794,382	241,251,074
LIABILITIES		
Current liabilities		
Accrued cost of electricity	60,283,371	38,815,244
Accounts payable	2,824,571	3,264,853
Other accrued liabilities	1,631,542	750,185
User taxes and energy surcharges due to other governments	5,846,282	3,857,146
Security deposits - energy suppliers	25,865,000	6,838,122
Total current liabilities	96,450,766	53,525,550
DEFERRED INFLOWS OF RESOURCES		
Rate Stabilization Fund	15,814,000	15,814,000
NET POSITION		
Investment in capital assets	8,760,016	115,816
Restricted for collateral	9,000,000	10,000,000
Unrestricted	214,769,600	161,795,708
Total net position	\$ 232,529,616	\$ 171,911,524

EAST BAY COMMUNITY ENERGY AUTHORITY
STATEMENTS OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
YEARS ENDED JUNE 30, 2022 AND 2021

	2022	2021
OPERATING REVENUES		
Electricity sales, net	\$ 538,713,401	\$ 425,733,911
Revenue deferred to Rate Stabilization Fund	-	(3,134,000)
Liquidated damages	14,658,400	-
Grant revenue	1,614,597	-
Other revenue	346,148	902,949
Total operating revenues	555,332,546	423,502,860
OPERATING EXPENSES		
Cost of electricity	474,633,255	377,480,734
Contract services	16,611,808	13,906,614
Staff compensation	7,887,849	7,134,883
General and administration	2,738,461	2,585,219
Depreciation	62,601	52,603
Total operating expenses	501,933,974	401,160,053
Operating income	53,398,572	22,342,807
NONOPERATING REVENUES (EXPENSES)		
Grant revenue	7,901,267	-
Interest income	221,757	636,395
Financing expense	(903,504)	(869,612)
Nonoperating revenues (expenses), net	7,219,520	(233,217)
CHANGE IN NET POSITION	60,618,092	22,109,590
Net position at beginning of year	171,911,524	149,801,934
Net position at end of year	\$ 232,529,616	\$ 171,911,524

EAST BAY COMMUNITY ENERGY AUTHORITY
STATEMENTS OF CASH FLOWS
YEARS ENDED JUNE 30, 2022 AND 2021

	<u>2022</u>	<u>2021</u>
CASH FLOWS FROM OPERATING ACTIVITIES		
Receipts from customers	\$ 503,810,291	\$ 448,902,853
Other operating receipts	44,726,247	8,937,471
Payments to suppliers for electricity	(477,173,526)	(391,197,468)
Payments for other goods and services	(21,925,338)	(16,534,847)
Payments for staff compensation	(7,748,575)	(6,963,515)
Tax and surcharge payments to other governments	(18,648,636)	(19,163,570)
Net cash provided by operating activities	<u>23,040,463</u>	<u>23,980,924</u>
CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES		
Grant income	7,901,267	-
Financing expense payments	(683,084)	(1,082,956)
Net cash provided (used) by non-capital financing activities	<u>7,218,183</u>	<u>(1,082,956)</u>
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES		
Payments to acquire capital assets	<u>(8,613,048)</u>	<u>(33,951)</u>
CASH FLOWS FROM INVESTING ACTIVITIES		
Interest income received	221,757	636,395
Loan issued	(500,000)	-
Net cash provided (used) by investing activities	<u>(278,243)</u>	<u>636,395</u>
Net change in cash and cash equivalents	21,367,355	23,500,412
Cash and cash equivalents at beginning of year	155,661,706	132,161,294
Cash and cash equivalents at end of year	<u>\$ 177,029,061</u>	<u>\$ 155,661,706</u>
Reconciliation to the Statement of Net Position		
Unrestricted cash and cash equivalents (current)	\$ 152,215,061	\$ 129,847,706
Restricted cash and cash equivalents (current)	9,000,000	3,000,000
Unrestricted cash and cash equivalents (noncurrent)	15,814,000	15,814,000
Restricted cash and cash equivalents (noncurrent)	-	7,000,000
Cash and cash equivalents	<u>\$ 177,029,061</u>	<u>\$ 155,661,706</u>

EAST BAY COMMUNITY ENERGY AUTHORITY
STATEMENTS OF CASH FLOWS (CONTINUED)
YEARS ENDED JUNE 30, 2022 AND 2021

**RECONCILIATION OF OPERATING INCOME TO NET
CASH PROVIDED BY OPERATING ACTIVITIES**

	<u>2022</u>	<u>2021</u>
Operating income	\$ 53,398,572	\$ 22,342,807
Adjustments to reconcile operating income to net cash provided by operating activities		
Depreciation expense	62,601	52,603
Revenue adjusted for allowance for uncollectible accounts	4,710,670	10,916,254
(Increase) decrease in:		
Accounts receivable	(40,613,747)	(4,745,575)
Market settlements receivable	5,025,941	(3,045,683)
Other receivables	(5,594,164)	(596,927)
Accrued revenue	(19,637,803)	(1,821,740)
Prepaid expenses	(2,480,999)	1,507,944
Deposits	(14,441,650)	384,200
Increase (decrease) in:		
Accrued cost of electricity	21,468,127	(11,505,052)
Accounts payable	(754,456)	882,193
Other accrued liabilities	139,274	171,368
Deferred revenue	742,083	(120,019)
User taxes due to other governments	1,989,136	(343,571)
Security deposits from energy suppliers	19,026,878	6,768,122
Rate Stabilization Fund	-	3,134,000
Net cash provided by operating activities	<u>\$ 23,040,463</u>	<u>\$ 23,980,924</u>

**EAST BAY COMMUNITY ENERGY AUTHORITY
NOTES TO THE BASIC FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2022 AND 2021**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

REPORTING ENTITY

East Bay Community Energy Authority (EBCE) is a California joint powers authority created on December 1, 2016. As of June 30, 2022, parties to its Joint Powers Agreement consist of the following local governments, plus one representative (non-voting) from the Community Advisory Committee (CAC):

County	Cities	
Alameda	Albany	Newark
	Berkeley	Oakland
	Dublin	Piedmont
	Emeryville	Pleasanton
	Fremont	San Leandro
	Hayward	Tracy
	Livermore	Union City

EBCE is separate from, and derives no financial support from, its members. EBCE is governed by a Board of Directors whose membership is composed of elected officials representing the member governments.

A core function of EBCE is to provide electric service that includes the use of renewable sources under the Community Choice Aggregation Program under California Public Utilities Code Section 366.2.

EBCE began its energy delivery operations in June 2018. Electricity is acquired from electricity suppliers and delivered through existing physical infrastructure and equipment managed by Pacific Gas and Electric Company.

**EAST BAY COMMUNITY ENERGY AUTHORITY
NOTES TO THE BASIC FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2022 AND 2021**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

BASIS OF ACCOUNTING

EBCE's financial statements are prepared in accordance with generally accepted accounting principles (GAAP). The Governmental Accounting Standards Board (GASB) is responsible for establishing GAAP for state and local governments through its pronouncements.

EBCE's operations are accounted for as a governmental enterprise fund and are reported using the economic resources measurement focus and the accrual basis of accounting – similar to business enterprises. Accordingly, revenues are recognized when they are earned, and expenses are recognized at the time liabilities are incurred. Enterprise fund-type operating statements present increases (revenues) and decreases (expenses) in total net position. Reported net position is segregated into three categories – investment in capital assets, restricted and unrestricted.

When both restricted and unrestricted resources are available for use, it is EBCE's policy to use restricted resources first, and then unrestricted resources as they are needed.

CASH AND CASH EQUIVALENTS

For purpose of the Statements of Cash Flows, EBCE has defined cash and cash equivalents to include cash on hand, demand deposits, and short-term investments with an original maturity of three months or less. For the purpose of the Statements of Net Position, restricted cash balances are presented separately. Restricted cash reported on the Statements of Net Position includes collateral on a credit facility, as well as a required minimum balance to be maintained in one of its bank accounts.

MARKET SETTLEMENTS RECEIVABLE

EBCE receives generation scheduling and other services from a registered California Independent System Operator (CAISO) scheduling coordinator.

PREPAID ENERGY PURCHASES AND DEPOSITS

Various energy contracts entered into by EBCE require EBCE to provide the supplier with a security deposit. The deposits are generally held for the term of the contract. Deposits are classified as current or noncurrent assets depending on the length of the time the deposits will be held. While these energy contract-related deposits make up the majority of this item, other components include deposits for regulatory and other operating purposes.

**EAST BAY COMMUNITY ENERGY AUTHORITY
NOTES TO THE BASIC FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2022 AND 2021**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

CAPITAL ASSETS AND DEPRECIATION

EBCE's policy is to capitalize furniture and equipment valued over \$1,000 that is expected to be in service for over one year. Depreciation is computed according to the straight-line method over estimated useful lives of three years for electronic equipment, seven years for furniture and seven years for leasehold improvements, unless limited by the length of the original lease term. EBCE does not own any electric generation assets.

SECURITY DEPOSITS – LIABILITY

Various energy contracts entered into by EBCE require the supplier to provide EBCE with a security deposit. Often this security is held by EBCE for the duration of the contract or until certain milestones are met. Deposits are classified as current or noncurrent depending on the length of time the deposits will be held.

RATE STABILIZATION FUND

EBCE created a Rate Stabilization Fund to allow EBCE to defer revenue in years when financial results are strong to be used in future years when financial results are stressed. In accordance with GASB Statement No. 62 and GASB Statement No. 65, the amount recognized as an addition to the fund is shown as a reduction of operating revenues and reported on the statements of net position as a deferred inflow of resources.

EBCE directed revenue of \$0 and \$3,134,000 to the Rate Stabilization Fund for the years ended June 30, 2022 and 2021, respectively.

NET POSITION

Net position is presented in the following components:

Investment in capital assets: This component of net position consists of capital assets, net of accumulated depreciation and reduced by outstanding borrowings that are attributable to the acquisition, construction, or improvement of those assets. EBCE did not have any such borrowings outstanding as of June 30, 2022 and 2021.

Restricted: This component of net position consists of constraints placed on net asset use through external constraints imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments or constraints imposed by law through constitutional provisions or enabling legislation.

Unrestricted: This component of net position consists of net position that does not meet the definition of "investment in capital assets" or "restricted."

**EAST BAY COMMUNITY ENERGY AUTHORITY
NOTES TO THE BASIC FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2022 AND 2021**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

OPERATING AND NONOPERATING REVENUES

Operating revenues include revenues derived from the provision of energy to end-use retail customers and grant revenue earned from the delivery of program activities. Operating revenues are affected by amounts directed to or from the Rate Stabilization Fund.

Investment income is considered “nonoperating revenue.” Certain grant revenue, such as from the California Arrearage Payment Program (CAPP), is also considered “nonoperating revenue.”

REVENUE RECOGNITION

EBCE recognizes revenue on the accrual basis. This includes invoices issued to customers during the reporting period and electricity estimated to have been delivered but not yet billed. Management estimates that a portion of the billed amounts will be uncollectible. Accordingly, an allowance for uncollectible accounts has been recorded.

OPERATING AND NONOPERATING EXPENSES

Operating expenses include the costs of sales and services, administrative expenses, and depreciation on capital assets. Expenses not meeting this definition are reported as nonoperating expenses.

ELECTRICAL POWER PURCHASED

During the normal course of business, EBCE purchases electrical power from numerous suppliers. Electricity costs include the cost of energy and capacity arising from bilateral contracts with energy suppliers as well as generation credits, and load and other charges arising from EBCE’s participation in CAISO’s centralized market. The cost to acquire electricity and capacity is recognized as “Cost of Electricity” in the Statements of Revenues, Expenses and Changes in Net Position.

To comply with the State of California’s Renewable Portfolio Standards (RPS) and self-imposed benchmarks, EBCE acquires RPS eligible renewable energy evidenced by Renewable Energy Certificates (Certificates) recognized by the Western Renewable Energy Generation Information System. EBCE obtains Certificates with the intent to retire them and does not sell or build surpluses of Certificates with a profit motive. EBCE recognizes an expense on a monthly basis that corresponds to the volume sold to its customers for its various renewable and carbon-free products. This expense recognition increases accrued cost of electricity reported on the Statements of Net Position until the time the payment has been made to the supplier.

**EAST BAY COMMUNITY ENERGY AUTHORITY
NOTES TO THE BASIC FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2022 AND 2021**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

ELECTRICAL POWER PURCHASED (continued)

EBCE purchases capacity commitments from qualifying electricity generators to comply with the California's Resource Adequacy Program. The goals of the Resource Adequacy Program are to provide sufficient resources to CAISO to ensure the safe and reliable operation of the electrical grid in real-time and to provide appropriate incentives for the siting and construction of new resources needed for reliability in the future.

STAFFING COSTS

EBCE pays employees semi-monthly and fully pays its obligation for health benefits and contributions to its defined contribution retirement plan monthly. EBCE is not obligated to provide post-employment healthcare or other fringe benefits, and accordingly, no related liability is recorded in these financial statements. EBCE provides compensated absences, and the related liability is recorded in these financial statements.

INCOME TAXES

EBCE is a joint powers authority under the provision of the California Government Code and is not subject to federal or state income or franchise taxes.

ESTIMATES

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

RECLASSIFICATIONS

Certain amounts in the prior-year financial statements have been reclassified for comparative purposes to conform to the presentation of the current-year financial statements. These reclassifications did not result in any change in previously reported net position.

EAST BAY COMMUNITY ENERGY AUTHORITY
NOTES TO THE BASIC FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2022 AND 2021

2. CASH AND CASH EQUIVALENTS

EBCE maintains its cash in both interest-bearing and non-interest-bearing accounts at River City Bank in Sacramento, California. EBCE's deposits with River City Bank are subject to California Government Code Section 16521, which requires that River City Bank collateralize public funds in excess of the Federal Deposit Insurance Corporation limit of \$250,000 by 110%. EBCE has no deposit or investment policy that addresses a specific type of risk that would impose restrictions beyond this code. Accordingly, the amount of risk is not disclosed. EBCE monitors its risk exposure to River City Bank on an ongoing basis.

3. ACCOUNTS RECEIVABLE

Accounts receivable were as follows as of June 30:

	<u>2022</u>	<u>2021</u>
Accounts receivable from customers	\$101,011,756	\$ 60,398,009
Allowance for uncollectible accounts	(21,197,357)	(16,486,684)
Net accounts receivable	<u>\$ 79,814,399</u>	<u>\$ 43,911,325</u>

The majority of account collections occur within the first few months following customer invoicing. EBCE estimates that a portion of the billed accounts will not be collected. EBCE continues collection efforts on accounts in excess of *de minimis* balances regardless of the age of the account. Although collection success generally decreases with the age of the receivable, EBCE continues to have success collecting older accounts. The allowance for uncollectible accounts at the end of a period includes amounts billed during the current and prior fiscal years. During the year ended June 30, 2022, EBCE received CAPP funds (see Note 6) that helped offset previously written off accounts receivable.

4. CAPITAL ASSETS

Capital asset activity for the years ended June 30, 2022 and 2021, was as follows:

	<u>Furniture & Equipment</u>	<u>Land and Construction-in- Progress</u>	<u>Accumulated Depreciation</u>	<u>Total</u>
Balances at June 30, 2020	\$ 210,739	\$ -	\$ (62,686)	\$ 148,053
Additions	20,366	-	(52,603)	(32,237)
Balances at June 30, 2021	231,105	-	(115,289)	115,816
Additions	101,268	8,605,533	(62,601)	8,644,200
Balances at June 30, 2022	<u>\$ 332,373</u>	<u>\$ 8,605,533</u>	<u>\$ (177,890)</u>	<u>\$ 8,760,016</u>

**EAST BAY COMMUNITY ENERGY AUTHORITY
NOTES TO THE BASIC FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2022 AND 2021**

5. DEBT

In January 2020, EBCE entered into an amended revolving credit agreement with Barclays Bank. The available credit line under this agreement is \$80,000,000. The credit agreement enhances EBCE's overall liquidity for potential working capital needs and collateral requirements. This agreement terminates in January 2023. The borrowing rate on the credit facility is LIBOR, or its replacement rate, plus 2.5%.

EBCE had no debt outstanding under its line of credit agreement at June 30, 2022 or 2021. However, EBCE did issue Standby Letters of Credit secured by the line of credit agreement. At June 30, 2022, these Letters of Credit reduce the available portion of the line by approximately \$13,147,000 but are not considered debt to EBCE.

6. GRANTS

EBCE administers a grant from the California Arrearage Payment Program (CAPP) that offers financial assistance for California energy utility customers to help reduce past due energy bill balances that increased during the COVID-19 pandemic. This program is funded through the federal American Rescue Plan Act (ARPA) with Coronavirus State and Local Fiscal Recovery Funds.

EBCE also administers a grant from the California Public Utilities Commission (CPUC) for the Disadvantaged Communities Green Tariff (DAC-GT). This grant provides for bill discounts to eligible customers.

The following is a summary grant revenue for the years ended June 30:

	<u>2022</u>	<u>2021</u>
CAPP	\$ 7,901,267	\$ -
DAC	1,614,597	-
Total grant revenue	<u>\$ 9,515,864</u>	<u>\$ -</u>

**EAST BAY COMMUNITY ENERGY AUTHORITY
NOTES TO THE BASIC FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2022 AND 2021**

7. DEFINED CONTRIBUTION RETIREMENT PLAN

The East Bay Community Energy Authority 401(a) Plan (the Plan) is a defined contribution retirement plan administered by LT Trust. As of June 30, 2022, there were 46 plan members. EBCE is required to contribute a match up to 6% of annual covered payroll to the Plan and contributed \$929,000 and \$816,000 during the years ended June 30, 2022 and 2021, respectively. EBCE has elected out of the Social Security system for employees eligible for the Plan. As part of this election, EBCE makes required “replacement” contributions to the Plan. Plan provisions are established and may be amended by the Board of Directors.

8. RISK MANAGEMENT

EBCE is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; and errors and omissions. During the year, EBCE purchased insurance policies from investment-grade commercial carriers to mitigate risks that include those associated with earthquakes, theft, general liability, errors and omissions, and property damage. Deductible limits range from \$0 to \$1,000. Settled claims have not exceeded coverage in the last two years. There were no significant reductions in coverage compared to the prior year. From time to time, EBCE may be party to various pending claims and legal proceedings. Although the outcome of such matters cannot be forecasted with certainty, it is the opinion of management and EBCE’s legal counsel that the likelihood is remote that any such claims or proceedings will have a material adverse effect on EBCE’s financial position or results of operations.

EBCE maintains risk management policies, procedures and systems that help mitigate credit, liquidity, market, operating, regulatory and other risks that arise from participation in the California energy market. Credit guidelines include a preference for transacting with investment-grade counterparties, evaluating counterparties’ financial condition and assigning credit limits as applicable. These credit limits are established based on risk and return considerations under terms customarily available in the industry. In addition, EBCE enters into netting arrangements whenever possible and where appropriate obtains collateral and other performance assurances from counterparties.

**EAST BAY COMMUNITY ENERGY AUTHORITY
NOTES TO THE BASIC FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2022 AND 2021**

9. PURCHASE COMMITMENTS

In the ordinary course of business, EBCE enters into various power purchase agreements in order to acquire renewable and other energy and electric capacity. The price and volume of purchased power may be fixed or variable. Variable pricing is generally based on the market price of either natural gas or electricity at the date of delivery. Variable volume is generally associated with contracts to purchase energy from as-available resources such as solar, wind, and hydroelectric facilities.

The following table details the obligations on existing energy, renewable, and resource adequacy (RA) contracts as of June 30, 2022:

Years ending June 30,	
2023	\$ 286,000,000
2024	205,000,000
2025	176,000,000
2026	153,000,000
2027	135,000,000
2028-2043	<u>1,302,000,000</u>
Total	<u>\$ 2,257,000,000</u>

10. LEASE

In February 2019, EBCE entered into a 39-month non-cancelable lease for its office premise from August 1, 2019 through October 31, 2022. Rental expense for EBCE's office space was \$442,000 and \$429,000 for the years ended June 30, 2022, and 2021, respectively.

**EAST BAY COMMUNITY ENERGY AUTHORITY
NOTES TO THE BASIC FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2022 AND 2021**

11. FUTURE GASB PRONOUNCEMENTS

The requirements of the following GASB Statements are effective for years ending after June 30, 2022:

GASB has approved GASB Statement No. 94, *Public-Private and Public-Public Partnerships and Availability Payment Arrangements*, GASB Statement No. 96, *Subscription-Based Information Technology Arrangements*, GASB Statement No. 97, *Certain Component Unit Criteria and Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans*, GASB Statement No. 99, *Omnibus 2022*, GASB Statement No. 100, *Accounting Changes and Error Corrections – An Amendment of GASB Statement No. 62*, and GASB Statement No. 101, *Compensated Absences*. When they become effective, application of these standards may restate portions of these financial statements.

12. SUBSEQUENT EVENTS

NEW MEMBER

In October 2022, EBCE admitted the City of Stockton as a member. EBCE anticipates electric deliveries in this new territory will begin in 2024.

SUPPLEMENTARY INFORMATION

EAST BAY COMMUNITY ENERGY AUTHORITY
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
YEAR ENDED JUNE 30, 2022

<u>Federal Grantor/Pass-Through Grantor/Program</u>	<u>Federal Assistance Listing Number</u>	<u>Pass-Through Entity Identifying Number</u>	<u>Total Federal Expenditures</u>
Department of the Treasury			
California Department of Community Services and Development (CSD)			
COVID-19 American Rescue Plan Act (ARPA)			
Coronavirus State and Local Fiscal Recovery Funds			
California Arrearage Payment Program (CAPP)	21.027	68-0283471	\$ 7,901,267
Total Department of the Treasury			<u>7,901,267</u>
Total expenditures of federal awards			<u><u>\$ 7,901,267</u></u>

EAST BAY COMMUNITY ENERGY AUTHORITY
NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
YEAR ENDED JUNE 30, 2022

1. BASIS OF PRESENTATION

The accompanying Schedule of Expenditures of Federal Awards (the Schedule) includes the federal grant activity of East Bay Community Energy (EBCE) under programs of the federal government for the year ended June 30, 2022. The information in the Schedule is presented in accordance with the requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Therefore, some amounts presented in this Schedule may differ from amounts presented in, or used in the preparation of, EBCE's financial statements. Because the Schedule presents only a selected portion of the operations of EBCE, it is not intended to and does not present the financial position, changes in the net position or cash flows of EBCE.

All federal awards received directly from federal agencies, as well as federal awards passed through nonfederal agencies and organizations are included in the Schedule. Pass-through entity identifying numbers are presented when available.

The reporting entity for EBCE is based upon criteria established by the Governmental Accounting Standards Board.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES FOR FEDERAL AWARDS

Expenditures on the accompanying Schedule are reported on an accrual basis of accounting. Expenditures are recognized when approved for payment and posted to EBCE's accounting system. Expenditures are incurred prior to including on the Schedule. Expenditures for federal awards are recognized following the cost principles contained in the Uniform Guidance. Under these cost principles certain types of expenditures are not allowable or are limited as to reimbursement.

3. SUB-RECIPIENTS

Of the federal expenditures presented in the Schedule, EBCE did not provide federal awards to sub-recipients for the year ended June 30, 2022.

3. INDIRECT COSTS

EBCE did not elect to use the 10 percent de minimis indirect cost rate allowed under the Uniform Guidance.

COMPLIANCE



**Report on Internal Control Over Financial Reporting
and on Compliance and Other Matters Based on an Audit
of Financial Statements Performed in Accordance with
*Government Auditing Standards***

Independent Auditor's Report

Board of Directors
East Bay Community Energy
Oakland, California

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the business-type activities East Bay Community Energy ("EBCE"), as of and for the year ended June 30, 2022, and the related notes to the financial statements, which collectively comprise EBCE's basic financial statements, and have issued our report thereon dated October 27, 2022.

Report on Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered the EBCE's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of EBCE's internal control. Accordingly, we do not express an opinion on the effectiveness of EBCE's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of EBCE's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

**Report on Internal Control Over Financial Reporting
and on Compliance and Other Matters Based on an Audit
of Financial Statements Performed in Accordance with
Government Auditing Standards (continued)**

Independent Auditor's Report (continued)

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether EBCE's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of EBCE's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering EBCE's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Presente & Brinku LLP

Santa Rosa, California
October 27, 2022



**Report on Compliance for Each Major Federal Program
and Report on Internal Control Over Compliance
Required by the Uniform Guidance**

Independent Auditor's Report

Board of Directors
East Bay Community Energy Authority
Oakland, California

Report on Compliance for Each Major Federal Program

Opinion on Each Major Federal Program

We have audited East Bay Community Energy Authority's compliance with the types of compliance requirements identified as subject to audit in the *OMB Compliance Supplement* that could have a direct and material effect on each of East Bay Community Energy Authority's major federal programs for the year ended June 30, 2022. East Bay Community Energy Authority's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

In our opinion, East Bay Community Energy Authority complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2022.

Basis for Opinion on Each Major Federal Program

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States (*Government Auditing Standards*); and the audit requirements of Title 2 U.S. *Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Our responsibilities under those standards and the Uniform Guidance are further described in the Auditor's Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of East Bay Community Energy Authority and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion on compliance for each major federal program. Our audit does not provide a legal determination of East Bay Community Energy Authority's compliance with the compliance requirements referred to above.

**Report on Compliance for Each Major Federal Program
and Report on Internal Control Over Compliance
Required by the Uniform Guidance (continued)**

Responsibilities of Management for Compliance

Management is responsible for compliance with the requirements referred to above and for the design, implementation, and maintenance of effective internal control over compliance with the requirements of laws, statutes, regulations, rules and provisions of contracts or grant agreements applicable to East Bay Community Energy Authority's federal programs.

Auditor's Responsibilities for the Audit of Compliance

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on East Bay Community Energy Authority's compliance based on our audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements referred to above is considered material, if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about East Bay Community Energy Authority's compliance with the requirements of each major federal program as a whole.

In performing an audit in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance, we

- exercise professional judgment and maintain professional skepticism throughout the audit.
- identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding East Bay Community Energy Authority's compliance with the compliance requirements referred to above and performing such other procedures as we considered necessary in the circumstances.
- obtain an understanding of East Bay Community Energy Authority's internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of East Bay Community Energy Authority's internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we identified during the audit.

**Report on Compliance for Each Major Federal Program
and Report on Internal Control Over Compliance
Required by the Uniform Guidance (continued)**

Report on Internal Control Over Compliance

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the Auditor's Responsibilities for the Audit of Compliance section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies in internal control over compliance. Given these limitations, during our audit we did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above. However, material weaknesses or significant deficiencies in internal control over compliance may exist that were not identified.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness over internal control over compliance. Accordingly, no such opinion is expressed.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.



Santa Rosa, California
October 27, 2022

East Bay Community Energy Authority

Schedule of Findings and Questioned Costs**Year Ended June 30, 2022****I. Summary of Auditor's Results*****Financial Statements***

Type of report the auditor issued on whether the financial statement audited were prepared in accordance with GAAP: Unmodified

Internal control over financial reporting:

Material weaknesses identified? No

Significant deficiencies identified? None reported

Noncompliance material to financial statements noted? No

Federal Awards

Internal control over major programs:

Material weaknesses identified? No

Significant deficiencies identified? None reported

Type of auditor's report issued on compliance for major federal programs: Unmodified

Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.516(a)? No

Identification of major federal programs:

Assistance Listing

Number

Name of Federal Program or Cluster

21.027

Coronavirus State and Local Fiscal Recovery Funds

Dollar threshold used to distinguish between type A and type B program: \$750,000

Auditee qualified as low-risk auditee? No

East Bay Community Energy Authority

Schedule of Findings and Questioned Costs

Year Ended June 30, 2022

II. Financial Statement Findings

No matters are reportable

III. Federal Award Findings and Questioned Costs

No matters are reportable

East Bay Community Energy Authority

Summary Schedule of Prior Audit Findings

Year Ended June 30, 2022

No Uniform Guidance audit performed in prior year.



PISENTI & BRINKER LLP

Certified Public Accountants & Advisors

*East Bay Community Energy
Report to the Board of Directors
November 16, 2022*

Introduction

- Brett Bradford, CPA
 - Audit Partner
 - 18 years in public accounting and performing audits of government entities
 - Currently working with several CCA's throughout California
- Aliandra Schaffer
 - Engagement Manager
 - 4 years in public accounting and performing audits of governments (CCA's)

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Results of current year audit:

- The audit is complete. We have reported the following:
 - Unmodified opinion – Based on our audit, the financial statements are materially accurate.
 - No significant deficiencies or material weakness in internal control have been identified.

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Audit of the year ended June 30, 2022

Financial Statements

Attachment Staff Report Item 15B

Relative Roles & Responsibilities

- **Management** is responsible for preparing the Financial Statements and establishing a system of internal control.
- **Auditor** is responsible for auditing the Financial Statements
 - Considering risks of material misstatement in the Financial Statements
 - Considering internal controls relevant to the Financial Statements
 - Performing tests of year-end balances based on risk assessment
 - Evaluating adequacy of disclosures

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Risk Assessment for the year ended June 30, 2022

Attachment Staff Report Item 15B

Significant areas of focus

- Consider impact of current economic climate (COVID)
- Revenue recognition
 - Accounts receivable and accrued revenue
 - Test a sample of customer billings
 - Relate total cash received during the year to revenue
 - Review revenue recognition through year-end and method for determining (accrued revenue)
- Cash
 - Confirmations sent to financial institutions

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Risk Assessment for the year ended June 30, 2022

Attachment Staff Report Item 15B

Significant areas of focus

- Accrued Cost of Electricity
 - Review subsequent bills from electricity providers and cash payments
- Accrued REC expense
- Supplier Security Deposits
 - Reviewed contracts and determined completeness of amounts recorded
- Financial Statement Note Disclosures – Complete and without bias
- Single Audit – Award of federal funds received through the CAPP program.

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Required Board Communications

- The significant accounting policies adopted by EBCE throughout the periods audited appeared appropriate and consistently applied.
- No alternative treatments of accounting principles for material items in the financial statements were discussed with management.

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Required Board Communications (continued)

- We did not propose any adjustments to the financial statements.
- We did not identify any significant or unusual transactions or applications of accounting principles where a lack of authoritative guidance exists.

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Required Board Communications (continued)

- There were no disagreements with management concerning the scope of our audit, the application of accounting principles, or the basis for management's judgments on any significant matters.
- We did not encounter any difficulties in dealing with management during the performance of our audit.

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Questions?

Brett Bradford: 707-577-1582



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Staff Report Item 16

TO: East Bay Community Energy Board of Directors

FROM: Jason Bartlett, Senior Finance Manager

SUBJECT: Reserve Fund Contribution from 2021-22 Fiscal Year (Action Item)

DATE: November 16, 2022

Recommendation

Approve a resolution to add the proposed contributions to the reserve fund balance

Background and Discussion

Reserve Fund Policy

On June 20, 2018 the Board of Supervisors approved by resolution R-2018-26 the adoption of a financial reserve policy, P-2018-10. This policy established reserve fund targets, along with minimum and maximum contribution limits, for the purposes of establishing and supporting agency credit, finance necessary collateral postings, and to support local development program funding.

On January 20, 2021 the Board of Supervisors approved by resolution R-2021-2 to amend the financial reserve policy to single sum to fulfill all the purposes outlined in the original policy and set a target for this sum to be 50% of annual operating costs, with an acceptable range from a minimum of 25% and a maximum of 75%. Policy P-2021-10.1 is the current state of the reserve policy.

Methodology and Calculation

The methodology for determining the amount to allocate to reserves is as follows:

1. Determine the convertible assets from the audited financial statements
2. Deduct total liabilities and non-recognized revenues
3. Deduct balances of the Local Development Fund and current reserves
4. Adjust for possible current working capital needs
5. Add remaining amount to the reserve balance

Table 1 performs the calculation in accordance with the methodology described and includes the final total recommended reserve balance.

Table 1: Net Unrestricted Assets Available for Reserve Funds		
Cash & Equivalents	152,215,061	
Accounts Receivable	79,814,399	
Accrued Revenue	47,590,010	
Other Receivables	6,286,352	
Total Convertible Assets	285,905,822	A
Total Liabilities	96,450,766	
Rate Stabilization Deferred Resources	15,814,000	
Total Deferrables	112,264,766	B
Unrestricted Available for Reserves	173,641,056	C = A-B
Current Reserves Balance	90,218,327	D
Local Development Fund Balance	17,767,656	E
2022 Undrestricted Funds Available for Reserves	65,655,073	F = C-D-E
Additional Working Capital Requirements	-	G
Working Capital Adjusted Funds Available for Reserves	65,655,073	H = F-G
New Reserve Balance	155,873,400	I = D+H

Current year's budgeted operating expenses are \$562,673,000. This new reserve balance is approximately 27.7% of these expenses and complies with Policy P-2021-10.1 by reaching a minimum target of 25% of operating expenses.

Fiscal Impact

This allocation will not impact normal operations and continues EBCE's firm commitment to financial security.

Attachments

- A. Resolution

RESOLUTION NO. __

A RESOLUTION OF THE BOARD OF DIRECTORS

**OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING A CONTRIBUTION
TO THE RESERVE FUND BALANCE**

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 On June 20, 2018, the Board approved Resolution R-2018-26 to adopt a Financial Reserve Policy, P-2018-10. This Policy established reserve targets, and minimum and maximum annual contribution limits,

WHEREAS On January 20, 2021, the Board approved Resolution R-2021-2 to amend the Financial Reserve Policy, P-2021-10.1. This policy amends the reserve target ranges to a percentage of annual operating costs and eliminates minimum and maximum annual contribution limits,

WHEREAS The available amount for contribution is determined from the audited financial statements by the sum of convertible assets less the sum of total liabilities, deferred resources, cash previously allocated to reserve funds, funds allocated to the Local Development fund, and anticipated cash needed for working capital,

WHEREAS The available balance is then added to the existing reserve fund balance to set the new amount held in reserves.

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

Section 1. Based on the methodology of determining available funds, an additional \$65,655,073 of unrestricted cash is available for reserve allocation.

Section 2. Based on the proper application of available funds to the reserve fund, a new reserve fund balance is established at \$155,873,400.

Section 3. The new reserve fund balance is 27.7% of Fiscal Year 2023 budgeted operating expenses and is in compliance with P-2021-10.1 by exceeding the minimum target of 25%.

Section 4. The Board hereby approves the addition of the proposed contributions to the Reserve Fund balance.

ADOPTED AND APPROVED this 16th day of November, 2022.

Dianne Martinez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



Staff Report Item 17

TO: East Bay Community Energy Board of Directors

FROM: JP Ross, Vice President, Local Development, Electrification & Innovation

SUBJECT: EBCE's Equitable Electric Vehicle Fast Charging Network: Tolling Partners (Action)

DATE: November 16, 2022

Recommendation

Adopt two (2) Resolutions authorizing the CEO to negotiate and execute a ten-year tolling Agreement with an affiliate of Calibrant Energy and a ten-year tolling agreement with an affiliate of EV Realty, Inc. for the financing, design, construction, maintenance and operation of EBCE's Phase I portfolio of electric vehicle (EV) fast charging hubs.

Background and Discussion

Statewide transportation accounts for more than 80 percent of smog-forming nitrogen oxide pollution, and 95 percent of toxic diesel particulate matter emissions. The transportation sector is also now the largest emitter of greenhouse gases in California. The full transition to zero emission vehicles (ZEV)¹ is a critical step toward carbon neutrality in EBCE's service area and beyond.

The State of California is taking several steps to help transition to ZEVs, which will also improve public health outcomes. On September 23, 2020, Governor Newsom signed Executive Order N-79-20² setting the following targets for ZEVs:

- By 2035, 100 percent ZEV sales for new passenger vehicles, 100 percent ZEV operations for drayage trucks, and 100 percent ZEV operations for off-road vehicles and equipment where feasible
- By 2045, 100 percent ZEV operations for medium-and heavy-duty vehicles where feasible.

¹ ZEVs include battery electric vehicles, plug-in hybrid electric vehicles, and fuel cell electric vehicles

² [Executive Order N-79-20](#)

For passenger vehicles, these regulations were affirmed through the California Air Resources Board (CARB) Advanced Clean Cars II regulations in August 2022.³

Currently in California, ZEVs account for approximately ~17 percent of all new vehicle sales.⁴ To ensure sustained growth in the plug-in EV market and to meet the State's regulations, a significant number of Direct Current Fast Charging (DCFC) ports are necessary through EBCE's service area to support new EV registrations.

In turn, EBCE is building an equitable network of EV fast charging hubs on behalf of its customers and Joint Powers Authority member cities. These public EV fast charging stations will not only help EBCE's service area meet statewide ZEV adoption mandates but will also help meet the needs of current and future EV drivers, especially renters, who do not have access to at-home charging. It is important to note that:

- 47% of all residents in Alameda County are renters
- 90% of all multi-family buildings (5+ units) in Alameda County are 50+ years-old and will therefore need electrical upgrades to accommodate Level 2 (overnight) EV charging

These data points are among several critical EV adoption barriers residents who are renters (nearly half of our population) face that will hinder equitable access to the benefits EVs near-term. Therefore, EBCE's charging network strategy is focused on locating EV fast charging hubs in areas where there are dense concentrations of multi-family housing units. EBCE is leveraging its relationships with JPA member cities who's municipally owned, publicly accessible parking lots, garages and/or public right-of-way parking spaces will serve as site hosts for the EV fast charging hubs.

- Each project site will have a standard design goal of 10 dual-port EV fast chargers (20 ports total). This design may be flexible based on-site constraints.
- EV fast chargers will be capable of charging two vehicles simultaneously
- EV fast charging hubs will generally be available 24/7 to EV drivers
- All EV fast charging hubs will be powered by EBCE's Renewable 100 electricity product

Multi-Site Approach

The installation of EV fast charging infrastructure aligns with each of EBCE's JPA member city's GHG emissions reduction goals. Critical to EBCE's project development strategy is the identification of viable municipally owned facilities with publicly accessible parking, which will serve as site hosts to EBCE's EV fast charging hubs. EBCE has been collaborating with our JPA member city's staff to assess real estate asset portfolios, identifying facilities well suited for potential EV fast charging hub project development. These sites can be standalone parking facilities or other municipally owned assets that have public parking spaces (e.g., libraries, community centers, curbside, etc.). Once a list of municipal sites has been identified by EBCE and city staff, EBCE's Transportation Electrification program team then reviews each in detail to confirm those that meet EBCE's priority siting attributes:

- Located in a multi-family "hotspot" (i.e., area with dense concentration of multi-family units)

³ [Advanced Clean Cars II regulation](#)

⁴ [New ZEV Sales report](#)

- Located adjacent to and/or within an easily (and safe) walkable distance to desirable driver amenities (e.g., cafes/restaurants, retail, grocery stores, etc.)
- Located in an area with little-to-no existing publicly accessible EV fast charging
- Located in an area with little constraint on PG&E's transmission and distribution system

The number of EV fast charging hubs needed per city to meet the state's ZEV mandates depends on the municipality's size and the total number of vehicle registrations in that city. To determine the number of EV charging ports (and in turn number of sites) required in each city, EBCE leveraged the National Renewable Energy Laboratory's EVI-Pro tool.⁵ This tool is also used by the California Energy Commission to determine the number of EV charging ports necessary statewide. EBCE determined 40-50 EV fast charging hubs, each with 10 dual port DCFCs, would be necessary by 2030 throughout its service area to fill current gaps in access.

Tolling Agreement Structure

EBCE aims to develop 40-50 public EV fast charging hubs by 2030. To reach this scale, EBCE is pursuing a Tolling Agreement through which EBCE will contract with one or more counterparties ("Tolling Partner") who will finance, construct, maintain and operate the charging stations at each hub over a 10-year period, and EBCE will pay the counterparty a fixed monthly payment.

This Tolling Agreement structure is utilized in the utility industry, including for standalone front-of-the-meter battery-energy storage projects. This structure is also a similar approach to EBCE's efforts to enhance the energy resilience of municipal facilities through the deployment of local distributed solar and storage projects. However, Tolling Agreements have never been leveraged for EV charging infrastructure, and EBCE will be the first in the U.S. to leverage this financing structure, enabling replicability by other load serving entities statewide including CCAs and municipal utilities. Under the tolling structure EBCE will have full flexibility to set rates and will bear utilization risk. While EBCE may bear more risk under a tolling arrangement, EBCE maintains more autonomy in setting rates in a manner that may drive more adoption from underserved segments and also captures more upside opportunity.

The tolling partnership will enable EBCE to scale its EV fast charging network quickly and cost-effectively by attracting low-cost capital, de-risking technology deployment, and leveraging state and federal funding opportunities to the maximum extent feasible.

Tolling Partners

Through a competitive solicitation process EBCE has selected two (2) Tolling Partners to develop up to the first fifteen (15) fast charging hubs, with a target of 10-12 sites. The Tolling Partners will be responsible for financing, developing, and operating separate EV fast charging hubs from one another.

⁵ [EVI-Pro](#)

Calibrant Energy: Calibrant is a joint venture between the Macquarie Green Investment Group (“GIG”)⁶ and Siemens⁷, bringing together two leaders in the infrastructure and energy space. Calibrant provides capital for distributed energy infrastructure projects and owns and manages them long-term, while overseeing the operations maintenance, and servicing. Calibrant is led by a team of seasoned industry professionals with decades of expertise developed through the financing and deployment of customized energy solutions for their clients and partners.

EV Realty, Inc.: EV Realty develops, deploys and owns grid-scale charging infrastructure critical to electrifying last-mile delivery and service fleets in the US. Launched in August 2021, EV Realty brings a scalable infrastructure development and asset ownership mindset to the nascent and evolving EV charging market. The EV Realty team draws upon deep sector experience gained by deploying nearly 8.5 GW of distributed and utility scale energy infrastructure projects in the US over the past 17 years. EV Realty is a privately held company headquartered in San Anselmo, CA.

Financial Impact

The cumulative Tolling Agreements are estimated not to exceed a net annual expense of \$3M/year for publicly available EV charging infrastructure.

Attachments

- A. Presentation
- B. Resolution Authorizing an Agreement with an affiliate of Calibrant Energy
- C. Resolution Authorizing an Agreement with an affiliate of EV Realty, Inc.

⁶ Macquarie Group has been a pioneer in the infrastructure and renewables sector for over two decades and, alongside its managed funds, has invested in or arranged over \$45bn in green energy projects since 2010.

⁷ Siemens A.G. is a diversified technology company focused on industry, infrastructure, transport, and healthcare. While Siemens manufactures EV charging equipment, they do not require the use of their equipment in Calibrant-developed projects.

NOVEMBER 16, 2022

EV Fast Charging Network Tolling Partners



EBCE's EV Fast Charging Network Attachment Staff Report Item 17A

EBCE is building a network of 24/7 publicly accessible electric vehicle (EV) fast chargers to:

- Enable the transition to EVs for *all* residents, especially renters
- Support JPA member cities' Climate Action Plan targets around transportation-related emissions reductions
- Enable our service area to reach CA state mandates for zero-emission vehicles (ZEVs)
 - 1.5 million ZEVs by 2025 → 64k in EBCE service area
 - 5 million ZEVs by 2030 → 200k in EBCE service area
 - 100% of in-state new sales to be ZEV by 2035

EBCE's EV fast charging network targets:

- 40-50 hubs by 2030
- Standard hub design: 10 dual-port fast chargers reaching 20 EVs (i.e., gas station model)

To deliver this network as cost-effectively as possible, EBCE is working with JPA member cities to leverage city-owned real estate parking assets as site hosts. This innovative public-public partnership model will deliver lower EV fast charging project costs (and therefore lower charging costs for drivers).

EBCE is identifying sites that meet the following priority attributes:

1. In a multi-family housing hotspot
 - 47% of County residents are renters
 - 90% of multi-family housing stock is 50+ yrs old → electrical upgrades required for at-home charging + other barriers for renters
 - DMV registration data shows virtually no uptake of EVs by renters to date
 - Need adoption to reach local GHG reduction and California ZEV targets
 - Convenient, reliable, affordable fast charging near where renters live will enable lower income drivers to benefit from EVs near term
2. Walkable driver amenities (e.g., retail, dining, etc.)
3. Fills gaps in existing fast charging locations (i.e., “charging deserts”)
 - Investing in areas where private sector has not been willing to thus far

Financing to Scale the Network: Tolling Structure

Attachment Staff Report Item 17A

To deploy 40-50 EV fast charging hubs by 2030, EBCE is pursuing a tolling agreement with two counterparties (“Tolling Partners”) who will each finance, construct, and maintain a portion of of EBCE’s Phase I portfolio of these charging stations over at least an initial 10-year period.

Tolling structure is common in utilities (e.g., recent deployment of battery energy storage).

Enables EBCE to:

- Attract low-cost capital
- De-risk deployment of an evolving technology
 - No in-house capabilities to own and operate this level of infrastructure assets
- Leverage federal funding opportunities, including tax credits, to the max extent possible through third-party ownership

Action:

- Two Resolutions each asking the Board to authorize the CEO to negotiate and execute a 10-year tolling agreement with a Tolling Partner to enable the efficient construction and commissioning of up to 15 of EBCE's EV fast charging hubs.
- The two Tolling Partners are:
 - Calibrant Energy
 - EV Realty, Inc.

Financial Impact:

- The cumulative tolling agreements will carry an estimated net annual expense not to exceed \$3M/year for publicly available EV charging infrastructure .

RESOLUTION NO. R-2022-XX

A RESOLUTION OF THE BOARD OF DIRECTORS

OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO NEGOTIATE AND EXECUTE AN ELECTRIC VEHICLE FAST CHARGING TOLLING MASTER SERVICES AGREEMENT WITH AN AFFILIATE OF CALIBRANT ENERGY

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, in January of 2018, Executive Order B-48-18 was signed by Governor Brown which established a goal of deploying 250,000 electric vehicle (“EV”) charging stations by 2025 and 5 million zero emission vehicles on roadways by 2030;

WHEREAS, in September of 2020, Executive Order N-79-20 was signed by Governor Newsom which set the following targets for zero emission vehicles: By 2035, 100 percent ZEV sales for new passenger vehicles, 100 percent ZEV operations for drayage trucks, and 100 percent ZEV operations for off-road vehicles and equipment where feasible;

WHEREAS, in August 2022, targets set forth in Executive Order N-79-20 for passenger vehicles were affirmed through the California Air Resources Board’s Advanced Clean Cars II regulations;

WHEREAS, EBCE is committed to building an equitable network of publicly accessible EV fast charging hubs for light-duty passenger vehicles that are convenient, reliable, and affordable;

WHEREAS, in order to scale the deployment of EBCE’s EV fast charging network to meet State Executive Order targets, as well as JPA member city climate and emissions reductions targets, EBCE must partner with one or more third-party firms (“Tolling Partners”) to finance, construct, and operate the network; and

WHEREAS, Tolling Partners will ensure the EV fast charging hubs are operational for at least an initial term of ten years.

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

Section 1. The CEO is hereby authorized to negotiate and execute a ten-year tolling agreement with an affiliate of Calibrant Energy for the financing, construction, and operation of a portion of EBCE's Phase I portfolio of EV fast charging hubs.

ADOPTED AND APPROVED this 16th day of November, 2022.

Dianne Martinez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board

RESOLUTION NO. R-2022-XX

A RESOLUTION OF THE BOARD OF DIRECTORS

OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO NEGOTIATE AND EXECUTE AN ELECTRIC VEHICLE FAST CHARGING TOLLING MASTER SERVICES AGREEMENT WITH AN AFFILIATE OF EV REALTY, INC.

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ADOPTED AND APPROVED this 16th day of November, 2022.

Dianne Martinez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



Staff Report Item 18

TO: East Bay Community Energy Board of Directors

FROM: JP Ross, Vice President Local Development, Electrification and Innovation

SUBJECT: Local Programs Update

DATE: November 16, 2022

Recommendation

Accept the informational update on Local Programs

Background:

EBCE has been active in developing and implementing programs approved in the '22-'23 Local Programs budget. Several of these programs have recently been initiated through public solicitations, including:

- Energy Efficiency and Grid Services Request for Proposals
- EBCE Ride Electric E-Bike Program Request for Proposals
- Zero Emissions Medium and Heavy Duty Goods Movement Electrification Loan
- Municipal Electrification Loans (to be developed)

Staff will be evaluating proposals and program design for the programs listed above. Final program details and contracts will be brought back to the Board of Directors for approval in the coming months.

Program Details:

Energy Efficiency and Grid Services Programs

EBCE has “elected” to administer energy efficiency programs on behalf of EBCE customers. EBCE’s Energy Efficiency Program Plan and Advice Letter were certified by the CPUC in Resolution E-5215 in September 2022. The Resolution allocates a budget

of \$13,463,049 in funding collected from EBCE's customers for EBCE to administer a commercial energy efficiency program.

This program will leverage emerging pay-for-performance (P4P) program approaches to offer cost-effective projects for large, non-residential, customer accounts. Projects will focus on high-potential opportunities for peak load management and building electrification. The primary objectives of this program are to: 1) Deliver cost-effective energy savings to commercial customers, 2) Cross-promote demand response to maximize peak load reductions for energy efficiency projects, and 3) Encourage electrification of existing natural gas end uses to achieve GHG reductions.

EBCE is targeting commercial customers for this program given they consume 58% of the entire load and make up 6% of all accounts. Commercial customers are responsible for a significant amount of EBCE's total electric load, and the time of day that customers use this energy contributes to the price they pay, the burden on the grid, and the associated GHG emissions. Within this segment, EBCE will target customers with high peak usage due to the cost-effective nature of use reduction and price signals from time-of-use (TOU) rates. Total savings from the Energy Efficiency program is estimated to be 30GWh.

EBCE is also requesting proposals for grid services to reduce demand during morning and evening peak hours. Building flexible load management capabilities requires planning and clear pricing signals to customers and the market. EBCE grid services program establishes a clear pricing signal over 5 years for measurable peak load reductions.

Planned Next Steps:

December '22: Proposals submitted

January '23: Shortlist and interview vendors, negotiate Services Agreement

February '23: Request BOD approval of Vendor agreement(s)

March '23: Launch Program

Ride Electric e-Bike Program

EBCE is seeking to provide a comprehensive e-Bike Program to increase adoption of zero-emission micromobility options that are safe, affordable and reduce motor vehicle trips across our service area. The EBCE Ride Electric e-Bike Program will provide EBCE's customers with the opportunity to get hands-on experience using e-Bikes and reduce the cost of ownership.

EBCE allocated \$2 million dollars for micromobility in the FY'23 budget and is planning to allocate an additional \$2 million dollars in both the FY'24 and FY'25 budgets for a total of \$6 million over 3 years. The e-Bike Program will have **two components, including:**

1. **e-Bike Incentive Program:** EBCE plans to allocate \$4M over three years to an e-Bike incentive that is intended to increase adoption and ownership of electric bikes in EBCE's service territory. Incentives will be available to all customers, with 40% of incentives dedicated to low income customers on EBCE's CARE electricity rate.
2. **e-Bike Lending Program:** EBCE plans to allocate \$2M over three years to stimulate e-Bike ownership beyond the financial limits of EBCEs ability to provide incentives. EBCE is soliciting proposals for an e-Bike Lending Program that will allow residents to check out e-Bikes for a to-be-determined period of time. Borrowing an e-Bike will enable EBCE's customers to gain hands-on experience to determine if an e-Bike could meet the needs of their daily activities. The intent of the e-Bike Lending Program will be to increase awareness and enthusiasm for e-Bikes, resulting in residents eventually purchasing e-Bikes. The Lending Program will be coordinated with the Incentive Program as long as incentive funds last.

EBCE is aware there may be other local, regional, state and federal funding available for e-Bikes in 2023. Proposals that leverage these external funding sources are encouraged and will be evaluated according to how they increase e-Bike Program availability, participation, and community benefit.

Next Steps

January '23: Deadline for proposals, Shortlist vendors, negotiate Services Agreement

February '23: Request BOD approval of Vendor agreement(s)

July '23: Launch EBCE Ride Electric Program

Zero-emission Medium And Heavy-duty Goods Movement Project Loans

EBCE is seeking to stimulate development of medium and heavy duty vehicle electrification projects in our Service Territory. Diesel particulate emissions from medium and heavy duty vehicles have a disproportionate effect on low income and disadvantaged communities. Electrification of these vehicles can reduce environmental burdens on our most impacted residents.

Electrification of goods movement is still in the early stages and capital can be challenging to raise for these types of projects. EBCE believes that the provision of lower cost capital for deploying electrification projects can stimulate investment in this sector.

EBCE is offering up to \$3M in loans at 5% interest for up to ten years to support zero-emission goods movement vehicle procurement and associated charging infrastructure. For this RFO, zero-emission vehicle technologies are defined as class 3-8 vehicles that generate zero tailpipe emissions. Eligible projects shall be powered by EBCE RE100 and must be registered, domiciled and operate on routes within EBCE's service territory and come online by July 2024. EBCE loans must be leveraged by a minimum of 3:1 with additional external investment capital.

Loans in standalone zero-emission MD/HD goods movement vehicle electrification or supporting charging infrastructure projects will be considered, but EBCE prefers projects that integrate both vehicle deployments and associated charging together. EBCE is prioritizing projects that reduce diesel fuel combustion in low income and disadvantaged communities and/or are within 2 miles of major highways as well as projects that support operators of small fleets (<10 vehicles).

Next Steps

November '22: Diligence on shortlisted projects

December '22: Negotiate loan agreement

January '23: Request BOD approval of loan agreement

Municipal Electrification Loan Program

Electrification of buildings is necessary to meet our climate neutrality targets. EBCE has been providing technical assistance to our Cities through our Municipal Electrification Assistance program and is interested in continuing support for electrification projects.

EBCE is aware that member agencies are planning to electrify municipal buildings in pursuit of climate action priorities. Electrification projects can be capital intensive and though municipalities can raise low cost debt, the process can be cumbersome and may restrict electrification projects. Therefore, EBCE is planning to make \$2M in no/low cost project capital available to member agencies to facilitate deployment of electrification projects.

EBCE is aware that cities may be constrained on taking on debt for these types of projects. EBCE will engage with member agency staff to determine the best way to

make the capital easily accessible to member agencies. Once the terms of the program have been defined EBCE will issue a call for projects to allow Cities, or the County, to submit funding requests for electrification projects.

The City of Piedmont is interested in utilizing EBCE funding to support a ~\$500k electrification project. Staff plans to work with Piedmont to determine how EBCE can support the project with the proposed EBCE loan fund. EBCE has allocated \$2M in the FY '23 budget to support municipal electrification loans. If member agencies have project capital requests that exceed the \$2M allocated, EBCE will return to the Board to request an increase in funds up to \$6M.

Q4 '22: Develop loan product with City feedback
December '22: seek BOD approval for Piedmont electrification loan
2023: Issue call for electrification projects

Fiscal Impact

Energy Efficiency and Grid Services

EBCE will receive \$13.5M in funding from the CPUC to implement the Energy Efficiency program. Revenue losses from the reduction in energy sales will be offset by the savings associated with lower energy procurement required during peak hours. The grid services program will be cost neutral.

Ride Electric e-Bike Program

EBCE allocated \$2M for micromobility in the FY'23 budget which will support the first year of the ride electric program. EBCE will request additional funds in FY'24 and FY'25 annual budgeting process to support the three year Ride Electric program.

Zero Emission Goods Movement Loans

EBCE budgeted \$2M to support medium and heavy duty goods movement projects in FY'23 and has an additional \$1M from previous budget to allocate to this program. EBCE anticipates earning \$900,000 in interest payments on this investment over the 10 year period. EBCE anticipates additional revenue associated with the medium/heavy duty vehicle charging.

Municipal Electrification Loans

EBCE allocated \$2M in the FY'23 budget for municipal electrification loans. If member agencies request more funding for loans EBCE will return to the Board of Directors to request an additional appropriation of funds to support this program.

Attachments

1. PowerPoint presentation

NOVEMBER 16, 2022

EBCE Local Development Update

PRESENTED BY:

JP ROSS

VP LOCAL DEVELOPMENT, ELECTRIFICATION AND INNOVATION



Background

EBCE Board approved \$22.5M local programs budget for FY'23. The following update describes some recent and upcoming solicitations to deliver benefits to EBCE customers. Staff will return to the Board to request approval of contracts resulting from these solicitations.

Programs Summary

- Energy Efficiency and Grid Services
- EBCE Ride Electric e-Bike Program
- Zero Emissions Goods Movement Electrification Loan
- Municipal Loan Program

Goal: CPUC funded program to deliver cost-effective energy savings to commercial customers, Encourage electrification of existing natural gas end uses. Deploy EBCE funded demand management program to obtain additional peak reductions

Commercial P4P EE Program

- CPUC ratepayer funded; \$13M
- Target large, non-res high-usage projects
- Incentives based on meter impacts for one year; kicker incentives between 4-9pm
- 4-year contract (including M&V)
- Implementer budget: \$11M

Additional Grid Services Program

- EBCE funded; tied to additional procurement value
- Incentives based on meter impacts and paid over 5 years @ \$95 - \$115/MWh during morning and afternoon peak periods
- Incentives may stack with other residential and non-residential projects within service territory

EBCE Ride Electric E-Bike Program

Goal: Allocate the \$2M budgeted to provide a comprehensive e-Bike Program to increase adoption of zero-emission micromobility options that are safe, affordable and reduce motor vehicle trips across our service area. Propose to allocate \$2M/yr from Local Development budget in FY'24 & FY'25 for a 3 year, \$6M program. EBCE will look to leverage other possible funding sources.

Summary:

- **e-Bike Incentive Program:** \$4M to increase adoption and ownership of electric bikes. 40% of incentives will be dedicated to low-income customers on CARE.
- **e-Bike Lending Program:** \$2M to stimulate e-Bike ownership beyond the financial limits of EBCEs ability to provide incentives. Residents will be able to check out e-Bikes, enabling resident to gain hands-on experience to determine if an e-Bike could meet the needs of their daily activities and ultimately purchase e-Bikes. The lending and incentive programs will be coordinated to maximize impact.

Zero Emission Medium & Heavy Duty Project Loan

Goal: Accelerate deployment of local medium/heavy duty vehicle electrification projects in EBCE territory.

Summary

- Offer low-cost capital to support projects that can deliver zero emission goods movement in EBCE service territory while accelerating and scaling business models to electrify transportation
- EBCE is offering \$3M @5% in loans for zero-emission Medium and Heavy Duty goods movement projects EBCE territory that can deliver 3:1 investment ratio
- Installation work is required to be prevailing wage
- Projects need to be in service by July 2024

Municipal Electrification Financing Program

Attachment Staff Report Item 18A

Goal: Assist Cities in electrifying municipal building by creating an easily accessible loan fund for electrification projects.

Summary

- Utilize the \$2M in the FY'23 Budget to fund Municipal Electrification projects
- Provide funds through no/low interest financing to municipalities to pursue electrification projects with cities able to submit project proposals to EBCE for projects that commence construction within next 12 months
- City of Piedmont has near term opportunity to leverage \$500k of these funds to support electrification of municipal pool and is seeking EBCE commitment of funds before end of 2022
- Staff proposes to begin working with Piedmont to structure \$500k of financing while in parallel launching 'call for projects' that is open to all EBCE member cities. If EBCE receives more than \$1.5m in project additional project financing proposals, staff recommends increasing the budget for this program - up to an NTE of \$6m

Programs Timeline

Program	October	November	December	January	February	March	Program Launch
EE/Grid Services Program	Issue RFP			Shortlist / Negotiate	Request BOD Approval	Program Launch	
E-Bike Program	Issue RFP			Shortlist / Negotiate	Request BOD Approval		July '23 Program Launch
ZE – M/H Duty Loans	Issue RFP	Shortlist	Negotiate	Request BOD Approval			July '24 Project COD
Muni Electrification Loans		Develop Offer			Open Call for Projects		
			Piedmont Pool BOD Approval				