



## Board of Directors Meeting

Wednesday, January 18, 2023

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

### 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](mailto: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 December 14, 2022 and December 16, 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. **Updated Conflict of Interest Code (Action Item)**  
Adopt Resolution Adopting Amended Conflict of Interest Code updating the positions required to file a statement of economic interest (Form 700).
8. **Authorization of CEO Expenditure to Mercer (Action Item)**  
Approve a Resolution delegating authority to the CEO to authorize spend up to \$130,000 to Mercer for compensation & benefits studies.
9. **Fourth Amendment to the Weideman Group CSA for Legislative Advocacy and Advisory Services (Action Item)**  
Adopt a Resolution authorizing East Bay Community Energy's (EBCE's) CEO to negotiate and execute a Fourth Amendment to the Consulting Services Agreement with Weideman Group, Inc. to extend the term through December 31, 2023, and add additional compensation in the amount of \$125,000, for a total not-to-exceed amount of \$625,000.
10. **Agreement with Google LLC (Action Item)**  
Corrected version of resolution authorizing the CEO to negotiate and execute a contract with Google Inc.

### REGULAR AGENDA

11. **CEO REPORT**
12. **Community Advisory Committee Report**
13. **2022 RFO Long Term Contracts for Approval (Action Item)**  
Adopt three Resolutions authorizing the Chief Executive Officer to execute Agreements for three projects awarded short listing through the 2022 Long-Term Resources request for offers (RFO) and bilateral outreach.
14. **PG&E Modified Cost Allocation Mechanism (CAM) Agreement (Informational Item)**  
Accept the informational update on PG&E Modified CAM Agreement.
15. **Authorizing CEO to Negotiate Agreements for Resilient Critical Facilities (Action Item)**  
Adopt a Resolution authorizing the CEO to negotiate and execute a PPA with Sunwealth LLC and a CSA with Gridscape Energy Solutions to file interconnection applications

16. **Board Member and Staff Announcements including requests to place items on future Board agendas**
17. **Adjournment to Wednesday, February 15, 2023 at 6:00 pm.**



## Draft Minutes

### Board of Directors Meeting

Wednesday, December 14, 2022

6:00pm

Via Zoom:

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

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*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.*

**Mayor John Bauters was sworn in as the new EBCE Director for the City of Emeryville.**

**Councilmember Matthew Jorgens was sworn in as the new EBCE Director for the City of Newark.**

#### 1. Welcome & Roll Call

**Present: Directors: Valle (Alameda County), Tiedemann (Albany), Kumaqai (Dublin), Bauters (Emeryville), Cox (Fremont), Jorgens (Newark), Kalb (Oakland), Cavanaugh (Piedmont), Narum (Pleasanton), Arriola (Tracy), Patino (Union City), Eldred (Community Advisory Committee) and Chair Lopez (San Leandro)**

**Excused: Directors: Harrison (Berkeley) and Munro (Livermore)**

**Member Cox served as an alternate for Member Mei (Fremont).**

#### 2. Pledge of Allegiance

**Chair Lopez led the EBCE Board of Directors in the Pledge of Allegiance.**

Chair Lopez recognized EBCE Legal Counsel Inder Khalsa, who spoke regarding the 12/12/2022 Public Comment letter from Jessica Tovar. Inder Khalsa stated that the Brown Act specifically allows staff to reach out to the Board and provide information, as long as staff is not facilitating an illegal meeting of the Board.

**Inder Khalsa's written statement is attached.**

### 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.*

Blair Beekman spoke regarding Jessica Tovar's Public Comment letter that was discussed at the December 12, 2022 Community Advisory Committee meeting. Blair Beekman stated that, over the long term, EBCE has a responsibility to develop practices that promote democratic accountability and partnership with the communities that it serves.

Nyah Tisdale spoke regarding Jessica Tovar's Public Comment letter that was discussed at the December 12, 2022 Community Advisory Committee meeting. Nyah Tisdale stated that, since 2019, EBCE staff have presented information to the Board in a misleading and biased way. Nyah Tisdale stated that biased information makes it difficult for the Board to make decisions based on complete information.

Jessica Tovar spoke regarding Jessica Tovar's Public Comment letter that was discussed at the December 12, 2022 Community Advisory Committee meeting. Tovar urged the Board to take action to ensure that all entities can work together for the benefit of communities that EBCE serves.

### 4. Closed Session

Conference with Labor Negotiations pursuant to Government Code 54957.6. (Labor negotiators: Dan Arriola; Corina Lopez) (Unrepresented employee).

### 5. General Report Out of Closed Session

**Chair Lopez stated that there were no items to report out of Closed Session. Chair Lopez further stated that the EBCE Board of Directors will reconvene on Friday, December 16, 2022 at noon to address in open session the item that was discussed in closed session.**

## **CONSENT AGENDA**

### 6. Approval of Minutes from November 16, 2022 and December 2, 2022

### 7. 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).

8. Contracts entered into (Informational Item)

9. Google Cloud Agreement (Action Item)

Resolution authorizing the CEO to negotiate and execute a contract with Google Inc.

Member Kalb motioned to approve the Consent Agenda. Member Arriola seconded the motion, which passed 12/0.

Excused: Members: Harrison (Berkeley), Cox (Fremont) and Munro (Livermore)

REGULAR AGENDA

10. CEO REPORT

- A. Executive Committee Report
- B. New Staff
- C. Piedmont Pool Electrification Update
- D. Marketing & Account Services Updates

Blair Beekman spoke regarding Consent Item 9 - Google Cloud Agreement, stating that cybersecurity plays an important role the development of technologies that provide transparency and accountability. Blair Beekman stated that the ACLU has published guidelines that can help facilitate a conversation between local communities and staff about the relationship between cybersecurity and democracy.

Jim Lutz asked about the Board Member Orientation that was mentioned in the CEO Report. Jim Lutz stated that, as a CAC member, he had not received an orientation. Jim Lutz asked if CAC members could receive a similar orientation.

11. Community Advisory Committee Report

- CAC Chair Eldred stated that CAC Vice-Chair Muetzenberg had stepped down from the CAC. Chair Eldred stated that the CAC now lacks a regular representative for the City of Tracy.
- CAC Chair Eldred announced that Member Hernandez has been appointed Vice-Chair of the CAC.
- CAC Chair Eldred spoke regarding Jessica Tovar's Public Comment letter dated December 12, 2022. Chair Eldred stated that what was a concern that the information that staff has provided has been misleading.

12. Net Energy Metering Discussion (Informational Item)

Brief discussion of the new NEM decision and EBCE's positions

The Board discussed:

1. The NEM 3.0 implementation timeline

2. Has EBCE had conversation with CPUC Directors? Where will they land if they make a decision.
3. How NEM 3.0 will impact Alameda County's solar installation projects

Blair Beekman stated that he hoped that the NEM 3.0 decision will not stifle the future growth of local solar implementation in California and that the opposing sides could compromise and create solutions that would provide access to local solar and funding for the electrical grid.

The Clerk read the written public comment from Barbara Stebbins. Barbara Stebbins stated that Local Clean Energy Alliance is disappointed that the Board did not oppose the CPUC's proposed NEM 3.0 decision. Barbara Stebbins stated that rooftop solar is the backbone of locally generated energy, and that the proposed decision, if passed by the CPUC, will cause rooftop solar to become financially out of reach for low income customers and community institutions.

CAC Chair Eldred spoke about non-bypassable charges on the energy bill, which formed part of the conversation about Net Energy Metering at the December 12, 2022 Community Advisory Committee. Chair Eldred stated that EBCE's ability to mitigate non-bypassable fees for its customers is minimal because EBCE only has control over generation charges; it does not have control over non-bypassable transmission or distribution charges. Additionally, EBCE customers are, in general, not aware of the benefits that EBCE's NEM policies provide. Chair Eldred stated that staff should look for ways to include in its marketing materials the benefits of EBCE's NEM policy and of being a solar customer in EBCE's service territory.

### 13. Amendment to Loan Agreement with BlocPower (Action Item)

Resolution authorizing CEO to amend the loan agreement with BlocPower to expand eligibility for subsidized financing to general residential market.

Jim Lutz offered three suggestions to add to the staff recommendation: 1. Limit the expanded eligibility to market rate to a small fraction of installs; 2. Think about expanding the program to include rental housing in a way that does not displace tenants, and 3. ensure that Health-E Communities Partnership does not take funding or resources away from the Low to Moderate Income Electrification program.

Member Bauters (Emeryville) motioned to approve the staff recommendation. Member Narum (Pleasanton) seconded the motion, which passed 11/0.

Excused: Members: Valle (Alameda County), Bartlett (Berkeley), Marquez (Hayward) and Munro (Livermore)

### 14. USEPA National Notable Achievement Award (Informational Item)

Presentation of award for EBCE's first-of-its-kind in the US work to evaluate Brownfield revitalization for the use case of EV fast charging hubs/centers

Jessie Denver extended EBCE's appreciation Eric Byous for the opportunity to work with EPA over the last couple of years.

**Zac Thompson** thanked Jessie Denver, Eric Byos and Vanessa Gerber.

**Chair Lopez** expressed her pride in EBCE staff their work leading to the USEPA National Notable Achievement Award.

**CEO Chaset** thanked EPA for the great partnership and looked forward to partnering with EPA to deploy charging at scale for medium and heavy-duty trucking, and to transform brownfield sites into clean fueling stations.

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

- **CEO Chaset** stated that at the January 18 Board of Directors meeting, a reception will be held to thank departing Board members. CEO Chaset also thanked Chair Lopez for her long service on behalf of EBCE.

**16. Adjournment to Friday, January 16, 2022 at 6:00 pm.**





Inder Khalsa

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## MEMORANDUM

TO: EBCE Board of Directors

CC: Community Advisory Committee (CAC)

FROM: Inder Khalsa, EBCE General Counsel

DATE: December 14, 2022

SUBJECT: Response to Letter from Jessica Tovar dated December 12, 2022

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Chair Lopez asked that I provide a brief response to some of the legal statements or allegations made by Jessica Tovar of East Bay Clean Power Alliance in her letter dated December 12, 2022. I will also make a public statement at tonight's Board meeting.

In the third paragraph of the letter, Ms. Tovar states that "In a public agency, information is presented by staff in a neutral fashion to its Board, its subcommittees, the CAC, and the public." I completely agree that public agency staff should operate with transparency and provide information to the Board, subcommittees, stakeholders, and the public. I do not agree, however, that staff has an obligation to be "neutral." On the contrary, an important role of professional government staff, including the CEO, is to present staff recommendations to the Board of Directors and to explain the reasoning behind staff recommendations. Sometimes, staff may advocate on behalf of their recommendations, and this is perfectly fine. The Board, of course, should take into consideration not only the staff recommendation, but input from committees, stakeholders, and members of the public. The Board is not bound to follow staff recommendation, but there is no obligation on the part of staff to present information in a "neutral" manner, and there is nothing legally problematic about staff advocating passionately on behalf of their views. Democracy functions best when the Board receives many varying points of view, including the views and opinions of staff.

Ms. Tovar goes on to allege that emails from CEO Chaset to the Board regarding the proposed \$15 million gift to UCSF Benioff were somehow inappropriate, echoing allegations that were previously made by Tom Kelly that these communications violated the Brown Act. But unilateral communications from staff members (including the CEO) to the Board of Directors, as well as communications between less than a quorum of the Board or a

subcommittee, are allowed under the Brown Act. In *Roberts v. City of Palmdale*, (1993) 5 Cal.4th 363, the California Supreme Court determined that emails or communications from staff members to the full Board are not a “meeting” as defined by the Brown Act. Likewise, staff can call and speak to individual Directors as long as they don’t convey views from one Director to another in a manner that would create a serial meeting in violation of the Brown Act. Directors can also speak to each other as long as they avoid deliberating or developing a consensus amongst a quorum of a legislative body. In fact, the Brown Act specifically authorizes the formation of “ad hoc subcommittees” of the legislative body, where less than a quorum of the body deliberate regarding a specific issue in confidence and then later report back to the full board.

I have reviewed the records produced by the EBCE and referenced by Ms. Tovar in her letter, and I did not see any evidence that CEO Chaset engaged in any legally inappropriate behavior under the Brown Act or any other law. His emails to the full Board explaining and advocating for staff’s position were exactly the type of unilateral communication allowed under the Brown Act. Further, he did not engage in back and forth communication with more than a quorum of the Board at any time in a manner that would violate the Brown Act. In order to facilitate transparency, the law provides that non-privileged unilateral staff communications to the Board are public records under the PRA. Gov. Code Section 54957.5(a). Therefore, EBCE properly disclosed these emails in response to Mr. Kelly’s request.

Of course, the Board of Directors sets the policy for the agency, and in doing so should take into consideration all information and points of view, including that presented by staff, but also the views and testimony of members of the public, stakeholders, advocates, and experts.



## Draft Minutes

### Board of Directors Meeting

Friday, December 16, 2022

12:00pm

Via Zoom:

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

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**Vice-Mayor Ben Bartlett was sworn in as the new EBCE Director for the City of Berkeley.**

#### 1. Welcome & Roll Call

Present: Directors: Tiedemann (Albany), Bartlett (Berkeley), Bauters (Emeryville), Cox (Fremont), Marquez (Hayward), Jorgens (Newark), Narum (Pleasanton), Arriola (Tracy), Patino (Union City), Eldred (Community Advisory Committee) and Chair Lopez (San Leandro)

Excused: Directors: Valle (Alameda County), Kumagai (Dublin), Munro (Livermore), Kalb (Oakland), and Cavanaugh (Piedmont).

*Member Cox served as an alternate for Member Mei (Fremont).*

#### 2. Pledge of Allegiance

#### 3. Public Comment

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*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.*

Blair Beekman spoke in support of adopting long-term practices that prioritize openness, democracy, and accountability. Blair Beekman spoke in support of listening to voices from local communities who advocate for equitable outcomes.

4. CEO Contract Amendment (Action Item)

Director Bauters motioned to approve the Sixth Amendment to the Employment Agreement Between the East Bay Community Energy Authority and Nicolas Chaset. Director Narum seconded the motion which passed 10/0.

Excused: Directors Valle (Alameda County), Kumagai (Dublin), Munro (Livermore), Kalb (Oakland), and Cavanaugh (Piedmont).

There was no public comment for this item.

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

Chair Lopez thanked the Board at her last meeting. Members Marquez, Bauters and Bartlett thanked Chair Lopez for her leadership.

6. Adjournment to Wednesday, January 18, 2022 at 6:00 pm.



## 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: December 14, 2022

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### 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

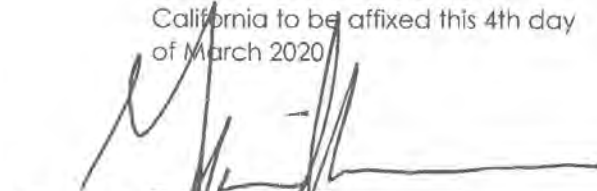
notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

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

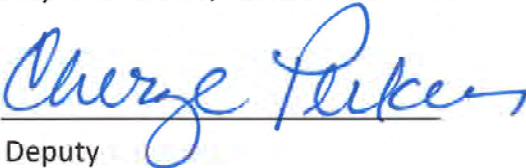
NOES: None

EXCUSED: Supervisors Chan and Miley - 2

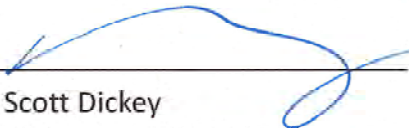


Richard Valle, President of the Board of Supervisors

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;

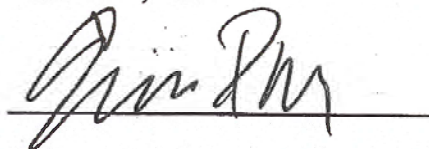
**WHEREAS**, based on the United States Department of Health and Human Services declaration and the Centers for Disease Control and Prevention statements, and multiple cases of COVID-19 and evidence of community transmission in the region, there is an ongoing risk and likelihood of additional COVID-19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

**WHEREAS**, based on the forgoing, 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 1<sup>st</sup>, 2020 throughout the County of Alameda;

**IT IS SO DECLARED**, on this date: March 5<sup>th</sup>, 2020.

**BY:**



Name: Dr. Erica Pan

Title: Interim Health Officer

Public Health Department, County of Alameda

**DECLARATION OF A LOCAL HEALTH EMERGENCY**

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

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

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

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

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

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


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

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

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

**IT IS SO DECLARED**, on this date: March 5<sup>th</sup>, 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:** January 18, 2023

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### RECOMMENDATION

Accept the CEO's report on contracts that EBCE has entered, as required by the Administrative Procurement Policy from December 8, 2022, to January 12, 2023;

C-2022-119 Keyes and Fox (Oakland) Fourth Amendment to CSA extends the termination date to June 30, 2023 and adds \$100,000 for legal services related to Policy and \$100,000 related to Local Development, and updates the hourly rates of compensation.

C-2022-120 SMUD Amendment 16 to Exhibit A provides the functionality to support the option for an annual true-up for solar customers, compared to current default of monthly true up.

C-2022-121 Umongous, Inc. (dba AYTm) (New Jersey) Consulting Services Agreement (New Jersey) brand research consulting related to EBCE expansion, compensation not to exceed \$10,000 through February 1, 2023.

C-2022-122 Understory (Oakland) Catering Agreement Catering Agreement provides for catering and hosting of EBCE holiday party in December 2022, total cost not to exceed \$14,000.

C-2022-123 Townsend Public Affairs Consulting Services Agreement (Newport Beach) Consulting Services Agreement provides for federal legislative advocacy services to EBCE, compensation is not to exceed \$60,000 through November 30, 2023.

C-2022-124 Komorous-Towey Architects (Oakland) First Amendment to CSA (Oakland) adds \$200,000 in compensation for services related to the office located at 251 8th Street, Oakland.

C-2022-125 Law Offices of Joseph Wiedman (Cloverdale, CA) Amendment to CSA confirms Consultant will jointly represent Silicon Valley Clean Energy Authority, Peninsula Clean Energy Authority, Marin Clean Energy, East Bay Community Energy Authority (via separate services

agreement), and San Diego Community Power (collectively “the Joint CCAs”) before the California Public Utilities Commission in Rulemaking 22-11-013.

C-2022-126 Pension Management Consultants (Modesto, CA) Agreement for Administrative Services - Pension Plan design, implementation, preparation of trust documents, compensated on an hourly basis of \$150/hour.

C-2022-127 Google Cloud Platform Addendum includes a discount of 5% on published pricing, in exchange for a 3-year commitment, minimum commitment is \$450,000 over 3 years.

C-2022-128 City of Livermore Charging Station License Agreement (e.g., Site Host Agreement) for Electric Vehicles on specific location on City Property.

C-2022-129 City of Oakland Charging Station License Agreement (e.g., Site Host Agreement) for Electric Vehicles on specific location on City Property.

C-2022-130 Bay Area Air Quality Management District Memorandum confirming adjustments made to Grant deliverables on Contract No. 2018.284.

C-2022-131 S&P Global (New York) Master Subscription Agreement for forward energy curve dataset subscription service, first year billed at \$25,000, second year billed at \$27,000.

C-2022-132 FinalOption dba Pacific Printing (San Jose) Third Amendment to CSA extends the Agreement for printing services through June 30, 2023 and adds \$320,000 to the compensation.

C-2022-133 Bay Area Air Quality Management District Amendment No. 1 TO 2103-17497 one-year extension to an existing Grant.



## Consent Item 7

**TO:** East Bay Community Energy Board of Directors  
**FROM:** Inder Khalsa, EBCE General Counsel  
**SUBJECT:** Adopt Resolution to Adopt a Revised Conflict of Interest Code  
**DATE:** January 18, 2023

---

### Recommendation

Adopt Resolution Adopting Amended Conflict of Interest Code updating the positions required to file a statement of economic interest (Form 700).

### Background and Discussion

Shortly after the formation of EBCE, the Board of Directors adopted a Conflict of Interest Code as required by the Political Reform Act (Government Code Section 81000, et seq.). The Code lists the positions within EBCE that are required to file statements of economic interests (Form 700). The Code was amended in January 2018, November 2018, October 2020, and December 2021 to add new positions or clarify reporting requirements.

Since the addition of the City of Tracy in San Joaquin County in March 2020, the EBCE has been a multi-county agency under the Political Reform Act. The California Fair Political Practices Commission (FPPC) is now the EBCE's "code-reviewing body" which must approve the EBCE's Conflict of Interest Code pursuant to Government Code Section 87303. Due to substantial delays related to staffing and COVID-19, the FPPC has not yet approved EBCE's Conflict of Interest Code. After the last amendments in 2020 and 2021, EBCE submitted its amended code to the FPPC, which submitted additional comments.

This amendment to the Conflict of Interest Code updates the agency's positions and removes the positions of Agency Clerk and HR Manager from the list of positions required to file a Form 700. The latter changes were at the suggestion of the FPPC, which felt that disclosure of financial interests was not necessary for these positions. We anticipate approval to occur after the adoption of this updated Conflict of Interest Code.

The attached Resolution rescinds Resolution Nos. R-2017-1, R-2018-36, R-2020-29, R-2021-53, the prior Conflict of Interest Code and subsequent amendments to the Code, and adopts a revised Conflict of Interest Code with updated positions.

**Attachments**

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

RESOLUTION NO. R-2023-\_\_

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

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

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

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

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

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

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

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

**WHEREAS**, on December 15, 2021, the Board of Directors approved Resolution No. R-2021-53, further amending the Conflict of Interest Code to update Appendix A.

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

**WHEREAS**, the Board of Directors now desires to amend its Conflict of Interest Code to update the staff positions required to file a Form 700.

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

Section 1. The Board of Directors hereby rescinds Resolution Nos. R-2017-1, R-2018-36, R-2020-29, and R-2021-53 and adopts the attached Conflict of Interest Code, including its Appendices of Designated Positions and Disclosure Categories.

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

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

ADOPTED AND APPROVED this 18th day of January, 2023.

\_\_\_\_\_  
Dan Arriola, Chair

ATTEST:

\_\_\_\_\_  
Adrian Bankhead, Clerk of the Board



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

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

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

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

**APPENDIX A  
Designated Positions**

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

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

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

---

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

- Members and Alternates of the Board of Directors

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

- Chief Operating Officer/Treasurer

**APPENDIX B**  
**Disclosure Categories**

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

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

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

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

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



## Consent Item 8

TO: East Bay Community Energy Board of Directors

FROM: Trevor Cherr, Sr. Director of HR

SUBJECT: Authorization of CEO Expenditure to Mercer

DATE: January 18, 2023

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### Recommendation

Approve a Resolution delegating authority to the CEO to authorize spend up to \$130,000 to Mercer for compensation & benefits studies.

### Background and Discussion

In order to refresh our compensation data, EBCE reviewed potential 3rd party vendors to complete several Compensation and Benefits studies, including a specific review of the CEO total compensation package, as well as a review, analysis, and recommendations for total compensation and benefits approach across EBCE roles.

The vendor list was initially narrowed down to three potential vendors and then further narrowed to two potential vendors after discussion and assessment of their ability to meet our needs. Due to the significant differences in the final product and outcome that EBCE would receive, Mercer was selected as the clear top pick and the only vendor who can meet all needs. In addition, to support cost and consistency, EBCE partnered with another CCA as a study participant. This CCA had already selected Mercer as its partner.

### Fiscal Impact

The fees related to this scope of work originally indicated an estimated cost to EBCE of \$90,000 - \$135,000 based on various participation factors for EBCE and the other CCA included. Initial reviews of the agreement and steps to take place indicated that the other CCA would participate in most of the stages, keeping the cost to EBCE below \$100,000 the threshold for CEO signing authority. However, during the process,

the other CCA opted out of a couple of components in the studies, leading to a greater cost burden for EBCE.

### **Committee Recommendation**

A Compensation Board Sub-Committee was consulted during this process, including several sessions held to discuss the initiative's purpose, review vendors, and discuss ongoing updates from the studies. This sub-committee's purpose was to review the components of the compensation studies that impact the CEO total compensation package. In August 2022, the sub-committee decided to proceed with Mercer to conduct the compensation studies.

### **Attachments**

- A. Resolution Authorizing CEO to Spend up to \$130,000 for Mercer Benefits and Compensation Studies.

**RESOLUTION NO. R-2023-XX**

**A RESOLUTION OF THE BOARD OF DIRECTORS**

**OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO SPEND UP TO \$130,000 FOR MERCER BENEFITS AND COMPENSATION STUDIES**

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

**WHEREAS** EBCE is seeking to refresh our position compensation data to ensure we remain competitive in the market, inclusive of total compensation and benefits; and,

**WHEREAS** Mercer was selected for these services from three potential vendors as the clear top pick and the only vendor able to meet all of EBCE’s needs, and EBCE has worked with Mercer in the past successfully; and,

**WHEREAS** EBCE has already engaged Mercer for these services but the cost of services has now exceeded the threshold of CEO signing authority, and Board approval is required to delegate authority to the CEO to spend up to \$130,000 for the Mercer benefits and compensation studies.

**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 spend up to \$130,000 for Mercer to complete compensation benefits and studies.

ADOPTED AND APPROVED this 18<sup>th</sup> day of January, 2022.

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Dan Arriola, Chair

ATTEST:

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Adrian Bankhead, Clerk of the Board



## Consent Item 9

**TO:** East Bay Community Energy Board of Directors

**FROM:** Alec Ward, Principal Legislative Manager

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

**DATE:** January 18, 2023

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### Recommendation

Adopt a Resolution authorizing East Bay Community Energy's (EBCE's) CEO to negotiate and execute a Fourth Amendment to the Consulting Services Agreement with Weideman Group, Inc. to extend the term through December 31, 2023, and add additional compensation in the amount of \$125,000, for a total not-to-exceed amount of \$625,000.

### Background and Discussion

On January 17, 2018, EBCE's Board approved the selection of Weideman Group to provide legislative advocacy and advisory services to EBCE throughout 2018. On January 16, 2019, EBCE entered into a new one-year Consulting Services Agreement (CSA) with Weideman Group. On January 22, 2020, EBCE executed a First Amendment to the January 16, 2019 CSA with Weideman Group. The First Amendment added \$125,000 to the not-to-exceed amount for a total amount not to exceed \$250,000 and extended the term for one year through December 31, 2020. On January 1, 2021, EBCE executed a Second Amendment which added another \$125,000 to the not-to-exceed amount for a total amount not to exceed \$375,000 and extended the term for one additional year through December 31, 2021. On January 1, 2022, EBCE executed a Third Amendment which added another \$125,000 to the not-to-exceed amount for a total amount not to exceed \$500,000 and extended the term for one additional year through December 31, 2022. For the past five years, Weideman Group has represented EBCE with legislators and their staff in Sacramento, in close coordination with the Public Policy Department and in accordance with EBCE's Board's adopted positions on legislative bills.



Weideman Group has over 30 years of experience representing entities seeking to navigate California's complex policymaking landscape. Mark Weideman, Principal and Founder will continue to serve as EBCE's chief lobbyist and strategist. Weideman Group professionals have represented both public and private entities in energy and utility matters before the California Legislature, the Governor's Office, the California Energy Commission, the California Public Utilities Commission, the California Environmental Protection Agency, and the California Air Resources Board, among others. Weideman Group also has strong relationships with elected officials, especially the Bay Area delegation.

In 2022, Weideman Group facilitated countless meetings with legislators, as well as in-person meetings when possible. Weideman Group supported EBCE in developing relationships with legislators and their staff, as well as with administration officials and other key strategic partners. Weideman Group lobbied on behalf of EBCE on key bills such as AB 1814 (Grayson), AB 1960 (Villapudua), AB 2667 (Friedman), AB 2765 (Santiago), SB 1020 (Laird), SB 1063 (Skinner), SB 1112 (Becker), and SB 1393 (Archuleta), among others.

EBCE seeks continued assistance from Weideman Group for legislative advocacy and advisory services in 2023, both to represent EBCE's views on bills in the new legislative cycle and to provide legislative advocacy and advice around any bills that EBCE may choose to sponsor.

Staff recommends authorizing EBCE's CEO to further amend the CSA with Weideman Group to extend the term for one year for the duration of 2023 with an additional \$125,000 in compensation.

### **Fiscal Impact**

This Fourth Amendment will result in an additional amounts not-to-exceed \$125,000 to spend in calendar year 2023. Legislative Advocacy and Advisory Services are included in the current fiscal year budget at this level.

### **Attachments**

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

RESOLUTION NO. R-2023-xx

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

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

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

WHEREAS, On January 17, 2018, EBCE’s Board approved the selection of Weideman Group to provide legislative advocacy and advisory services to EBCE through December 31, 2018; and

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

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

WHEREAS, On December 15, 2021, EBCE’s Board approved the Third Amendment extending Weideman Group’s services through December 31, 2022 and increasing the not-to-exceed amount by \$125,000 resulting in a total not-to exceed amount of \$500,000; and

WHEREAS, EBCE and Weidman Group now desire to further amend the Agreement to extend the term through December 31, 2023 and to add additional compensation in an amount not-to-exceed \$125,000, which includes legislative advocacy and advisory services; and

WHEREAS, In 2019, 2020, 2021, and 2022, Weideman Group facilitated countless meetings in Sacramento, in district and remotely, and supported EBCE in

developing relationships with legislators and their staff, as well as with administration officials and other key strategic partners. In 2023, EBCE would benefit from continued assistance from Weideman Group for legislative advocacy and advisory services, both to represent EBCE's views on bills in the new legislative cycle as well as to provide legislative advocacy and advice around any bills that EBCE may choose to sponsor.

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

Section 1. EBCE's Board of Directors hereby authorizes EBCE's CEO to negotiate and execute a Fourth Amendment to the CSA with Weideman Group to increase the not-to-exceed amount by \$125,000 for a total amount not-to-exceed \$625,000 and to extend the term through December 31, 2023.

ADOPTED AND APPROVED this 18<sup>th</sup> day of January, 2023.

ATTEST:

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Dan Arriola, Chair

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Adrian Bankhead, Clerk of the Board



## Consent Item 10

TO: East Bay Community Energy Board of Directors

FROM: Taj Ait-Laoussine, SVP and CIO

SUBJECT: Agreement with Google LLC

DATE: January 18, 2023

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### Recommendation

Adopt a Resolution authorizing the CEO to negotiate and execute an Agreement with Google for a term of 3 years, in order to benefit from a 5% discount on standard pricing from Google for EBCE's use of the Google Cloud Platform, in exchange for a commitment to spend \$450,000 over 3 years. The agreement is expected to save EBCE a minimum of \$22,500 over those 3 years. This Agreement is a "pay as you use" contract that does not have a contractual not-to-exceed amount, but this Agreement is expected to offer the agency savings overall, and the total amount expended will not exceed the funds budgeted for this purpose.

This resolution was brought forth in the previous board meeting, but due to a clerical error, the resolution language was not correct. This resolution corrects and clarifies the nature of the agreement. The memo provided in the December 14 Board Meeting Packet provides the background details.

### Attachments

- A. Resolution Authorizing the Chief Executive Officer to Negotiate and Execute an Agreement with Google LLC.

RESOLUTION NO. \_\_

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY TO AUTHORIZE THE CHIEF  
EXECUTIVE OFFICER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH GOOGLE  
LLC FOR CLOUD INFRASTRUCTURE SERVICES**

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; and

WHEREAS EBCE has developed a robust data analytics platform using Google Cloud Platform services (“Google Cloud Services”); and

WHEREAS EBCE has to-date been paying list prices for its use of Google Cloud Services; and

WHEREAS Google LLC is offering EBCE a discount of 5% on its published pricing for Google Cloud Services in exchange for a 3-Year Agreement and a minimum expenditure of \$450,000 over those 3 years; and

WHEREAS EBCE expects to be spending more than the minimum required amount on Google Cloud Services given its previous usage and expected growth, and to be benefitting from preferential pricing for usage beyond the minimum of \$450,000 over 3 years; and

WHEREAS EBCE staff and the Chief Executive Officer will ensure that expenditures associated with Google Cloud Services do not exceed the annual budgeted amounts as approved by the Board.

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

Section 1. The Board hereby authorizes the Chief Executive Officer to negotiate and execute, subject to the approval of General Counsel, an Agreement with Google LLC, for a term of 3 years, to secure a 5% discount over published list prices for Google Cloud Services, in exchange for committing to spend a minimum of \$450,000 over 3 years. The CEO’s authorization to expend funds under the Agreement shall not exceed the funds budgeted for this purpose.

ADOPTED AND APPROVED this 18<sup>th</sup> day of January, 2023.

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Dan Arriola, Chair

ATTEST:

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Adrian Bankhead, Clerk of the Board



## CEO Report Item 11

TO: East Bay Community Energy Board of Directors  
FROM: Nick Chaset, Chief Executive Officer  
SUBJECT: CEO Report (Informational Item)  
DATE: January 18, 2023

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### Recommendation

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

### 2023 Subcommittee and Executive Committee Meeting Schedule

Schedules for the Financial, Administrative and Procurement Subcommittee, the Marketing, Regulatory and Legislative Subcommittee and the Executive Committee will be created after all new Members have been appointed to the Board.

### New Staff

#### Shannon Rivers, Senior Power Resources Manager

Shannon joined EBCE on 1/11/2023 as Senior Power Resources Manager. Shannon will be responsible for developing Virtual Power Plants that participate in the wholesale market.

Prior to joining EBCE, Shannon managed CleanPowerSF and Hetch Hetchy Power's short- and mid-term energy supply portfolios, developed procurement strategies and recommendations for energy products, including renewable energy, carbon-free energy, conventional energy hedges, and Resource Adequacy products. She also managed solicitations for the purchase and sale of energy products, which involved developing models to analyze bid results and inform procurement recommendations. Shannon coordinated with counterparties, legal counsel, and internal stakeholders to negotiate and execute transactions.

Shannon holds a BA in Social Science with an emphasis in Geography and minor in Spanish from San Diego State University and a master's in Environmental Science and Management from the Bren School at the University of California, Santa Barbara.

#### Jason Zeng, Power Resources Data Analyst

Jason joined EBCE on 1/11/2023 as a Power Resources Data Analyst. Jason will be responsible for providing analysis of resource positions, and engineering data systems and visualizations to help the rest of the Power Resources team.

Jason has 8 years of experience in analytics, with PG&E as his most recent role. Primarily a data engineer, Jason has had an eclectic career from technology reporter to startup director to academic researcher.

Jason holds a MS in Chemical Engineering from Montana State University and a BA in Economics from Berkeley.





### Staff Report Item 13

**TO:** East Bay Community Energy Board of Directors

**FROM:** Marie Fontenetot, Vice President of Power Resources

**SUBJECT:** Kola Energy Storage, Vitol Ocotillo Solar, Sun Streams 2 Contract Approvals (Action)

**DATE:** January 18, 2023

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#### Recommendation

Adopt three Resolutions authorizing the Chief Executive Officer to execute Agreements for three projects awarded short listing through the 2022 Long-Term Resources request for offers (RFO) and bilateral outreach: Kola Energy Storage (NextEra Energy), Ocotillo Solar, LLC (Vitol), and Sun Streams 2 (Longroad Energy). The project operational dates are listed below:

- a. Kola: a 20-year, 125 MW energy storage agreement (ESA) for a battery storage project in Tracy, CA. June, 2025 online date. Developed by NextEra Energy.
- b. Ocotillo Solar: 10-year, 50 MW RA-only from solar and battery storage project in San Diego County. August 2023 online date. Developed by Vitol.
- c. Sun Streams 2: 10-year, RA-only from solar project in Maricopa County, Arizona. Already online. Developed by Longroad Energy.

#### Background and Discussion

The 2022 Long-Term Resource Request for Offers (RFO) is EBCE's third long-term contract solicitation; it was performed in partnership with San Jose Clean Energy (SJCE). The RFO was launched in February, 2022. The RFO sought several hundred megawatts (MW) of contracts with renewable energy and battery storage projects with a preference for projects located in California, and more preferentially, those located in Alameda County. EBCE's objective was to drive investments in new renewable and energy storage projects in Alameda County and California, while securing affordable resources to manage future power price risk. EBCE received a very healthy response to its RFO both in volume and quality of projects and proposals.

EBCE administered the RFO and completed robust analytics using internal tools and the cQuant valuation platform to calculate the net present value of proposed projects and determine the optimal portfolio to meet its objectives. EBCE intends to bring additional contracts from this RFO to the Board for approval in the coming months. All of these contracts will be utilized to hedge EBCE against price fluctuation in the CAISO energy markets and they will also contribute to procurement mandates issued by the California Public Utilities Commission (CPUC). The 2021-2023 Electric Reliability Requirements procurement mandate identified volumes of RA capacity each CPUC-jurisdictional load serving entity must procure and have online in the years 2021, 2022 and 2023.<sup>1</sup> The second mandate requires additional volumes of RA come online in years 2023, 2024, 2025, and 2026. That mandate is the "Decision Requirement Procurement to Address Mid-Term Reliability 2023-2026".<sup>2</sup>

The Ocotillo Solar and Sun Streams 2 project were offered to EBCE bilaterally, concurrent to ongoing negotiations underway in EBCE's 2022 Long-Term Resource Request for Offers (RFO) and were evaluated against offers submitted to the RFO.

The Kola project is an ESA from a 125 MW/500 MWh battery storage project. The contracted project, is located in Tracy, CA. It is part of a 400 MW total build-out at this site. The contract is for 20 years with an expected commercial operation date of June 1, 2025. NextEra Energy is an experienced developer having numerous operating renewable energy generation project and energy storage resources in California. NextEra has executed long-term contracts with several CCAs. The contracting entity is Kola Energy Storage II, LLC.

The Vitol Ocotillo Solar contract is for RA from a solar plus 50 MW/200 MWh battery storage project. The contracted project, Ocotillo Solar, is located in San Diego County. The contract is for 10 years with an expected commercial operation date of August 1, 2023. Vitol is a global energy business founded in 1966. Vitol is an experienced renewables developer with 750 MW of wind and solar projects in operation across the U.S. and over 2 GW in development across the U.S. The contracting entity is Ocotillo Solar LLC.

The Longroad Sun Streams 2 contract is for RA from a 150 MW solar project. The contracted project, Sun Streams 2, is located in Maricopa County, Arizona. The contract is for 10 years. The project is already operational, having achieved commercial operate on July 1, 2021. The energy and associated environmental attributes are committed to a long-term offtaker but the RA attribute is currently uncontracted and was offered to EBCE. Longroad is an experienced developer; Longroad is led by former executives of First Wind Energy. Since 2019, Longroad has brought to eleven major projects to COD, including 1.9 MW of solar projects. Longroad is currently contracted to operate 3.5 GW of operating or under-

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<sup>1</sup> <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M319/K825/319825388.PDF>

<sup>2</sup> <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M389/K603/389603637.PDF>

construction solar and wind projects across the United States, of which Longroad owns 1.8 GW. The contracting entity is Sun Streams 2 Solar, LLC.

**Attachments**

- A. Resolution Authorizing the CEO to Negotiate and Execute an Energy Storage Agreement with Kola Energy Storage II, LLC
- B. Resolution Authorizing the CEO to Negotiate and Execute a Resource Adequacy Agreement with Ocotillo Solar LLC
- C. Resolution Authorizing the CEO to Negotiate and Execute a Resource Adequacy Agreement with Sun Streams 2 Solar, LLC
- D. PowerPoint Presentation

**RESOLUTION NO. R-2023-XX**

**A RESOLUTION OF THE BOARD OF DIRECTORS**

**OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO  
NEGOTIATE AND EXECUTE A RESOURCE ADEQUACY AGREEMENT WITH KOLA  
ENERGY STORAGE II, 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 issued the 2022 Long-Term Resources request for offers (RFO) in February 2022; and

WHEREAS, Kola Energy Storage II, LLC, proposed an Energy Storage Agreement (ESA) for a 125MW/500 MWh battery storage project in San Joaquin County, developed by NextEra Energy; and

WHEREAS, the project is expected to be operational by June 1, 2025 and will provide energy arbitrage and Resource Adequacy (RA) for a term of twenty 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 twenty-year energy storage agreement with Kola Energy Storage II, LLC for a 125MW battery energy storage project in San Joaquin County. The final agreement shall include the key terms outlined in the staff report associated with this Resolution.

ADOPTED AND APPROVED this 18<sup>th</sup> day of January, 2023.

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Dan Arriola, Chair

ATTEST:

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Adrian Bankhead, Clerk of the Board

**RESOLUTION NO. R-2023-XX**

**A RESOLUTION OF THE BOARD OF DIRECTORS**

**OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO  
NEGOTIATE AND EXECUTE A RESOURCE ADEQUACY AGREEMENT WITH OCOTILLO  
SOLAR 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**, Ocotillo Solar LLC, proposed 50 MW of Resource Adequacy (RA) from a 50W solar and 50 MW/200 MWh battery energy storage project in San Diego County, developed by Vitol;

**WHEREAS**, the project is expected to be operational by August 1, 2023 and will deliver RA for a term of ten years; and

**WHEREAS**, EBCE staff considers this is a competitive proposal based on submissions to the 2022 Long-Term Resources Request For Offers (RFO).

**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 RA agreement with Ocotillo Solar LLC for a 50 MW RA-only agreement from a solar and battery energy storage project in San Diego County. The final agreement shall include the key terms outlined in the staff report associated with this Resolution.

ADOPTED AND APPROVED this 18<sup>th</sup> day of January, 2023.

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Dan Arriola, Chair

ATTEST:

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Adrian Bankhead, Clerk of the Board

**RESOLUTION NO. R-2023-XX**

**A RESOLUTION OF THE BOARD OF DIRECTORS**

**OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO  
NEGOTIATE AND EXECUTE A RESOURCE ADEQUACY AGREEMENT WITH SUN STREAMS  
2, 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**, Sun Streams 2, LLC, proposed Resource Adequacy (RA) from a 150W solar project in Maricopa County, Arizona, developed by Longroad Energy;

**WHEREAS**, the project is already operational as of July 1, 2021 and will deliver RA for a term of ten years; and

**WHEREAS**, EBCE staff considers this is a competitive proposal based on submissions to the 2022 Long-Term Resources Request For Offers (RFO).

**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 RA agreement with Sun Streams 2, LLC for RA-only from a solar generation resource in Maricopa County, Arizona. The final agreement shall include the key terms outlined in the staff report associated with this Resolution.

ADOPTED AND APPROVED this 18<sup>th</sup> day of January, 2023.

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Dan Arriola, Chair

ATTEST:



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Adrian Bankhead, Clerk of the Board



# 2022 Long-Term Resource RFO: Project Update

PRESENTED BY: Marie Fontenot

DATE: January 18, 2023

# Agenda

Attachment Staff Report Item 13D

- Solicitation Overview
- Participation
- Evaluation Process
- Current RFO Portfolio Characteristics
- Challenges in Marketplace
- Next Steps
- Appendix: Portfolio Summary

# Solicitation Overview

## Goals & Objectives

- Secure a portfolio of contracts to provide EBCE customers with affordable renewable and clean energy sources
- Meet IRP Near- and Mid-Term Resource Adequacy Reliability Procurement mandates
- Meet a significant percent of SB350 long-term contracting requirements, equal to 65% of RPS obligations
- Create new renewable energy projects to deliver PCC1 RECs
- Contract low-cost energy hedges to compliment existing portfolio
- Partner with SJCE for efficiency, to minimize expenses, and lead the market in contract terms

## Project Characteristics

### Facilities:

- Location: Projects may be within or outside of California. All energy must be deliverable to CAISO & must provide RA
- Construction Status: Energy and related products may come from new resources or add incremental capacity to existing resources.

### Capacity:

- Minimum Contract Capacity: 5 MW
- Maximum Contract Capacity: none

### Delivery Date:

- Energy and RPS attribute delivery must be within calendar years 2023, 2024, 2025, or 2026 with a preference for projects that begin delivery earlier within this window.

### Contract Duration:

- 10-20 year durations

### Technology:

- Renewables, Large Hydro
- Storage – short or long duration; any technology

## Actions

- Issued a broad, open, competitive solicitation to ensure wide array of opportunities considered
- Evaluated combinations of projects to achieve desired volume targets
- Typically prioritize project risk, location, workforce development, economics, and other characteristics; limited ability to do so in this RFO due to limited offers in earlier years
- Encouraged RFO participants to be creative and provide proposal variations on individual projects and include battery storage

# Solicitation Overview – Eligible Products

Attachment Staff Report Item 13D

Product #	Product Name	Description	Example
Product 1	As-Available RPS Product	New or incremental capacity to an existing stand-alone PCC1-eligible generating resource	solar, wind, geothermal, small hydro or ocean (thermal, wave, or current)
Product 2	As-Available RPS plus Energy Storage	New or incremental capacity to an existing stand-alone PCC1-eligible generating resource with co-located energy storage	Same as above plus storage with 2-hr, 4-hr, or 4-hr+ duration capability
Product 3	Firm or Shaped RPS Product	New PCC1-eligible generating resources; likely paired with energy storage	Energy delivered during specific hours
Product 4	High Capacity Factor, No On-Site Emissions RPS Energy	New stand-alone PCC1-eligible generating resource	Geothermal or Biomass
Product 5	Stand-Alone Energy Storage Toll or RA-Only offer	Energy storage may offer a full product “tolling” structure contract or and RA-only offer	Any storage technology with 2-hr, 4-hr, or 4-hr+ duration capability
Product 6	Zero-Emitting Capacity Resources	Must be available every day from 5pm to 10pm (hours ending 17 through 22); must be able to deliver <u>at least 5 MWh of energy for every 1 MW of incremental capacity</u>	Emission-free generation resources, emissions-free generation paired with storage, or demand response



# Participation

- **Less robust project offering than 2020 RFO. 44 unique project sites; 185 contract variations (as compared to 70 sites; 400 project variations in 2020 RFO)**
- **All 6 products that were solicited were offered**
- **Offers included solar, wind, geothermal, pumped hydro, and storage**
- **Projects based in 6 different states (CA, AZ, ID, NM, NV, OR); predominantly CA**
  - *\*Only 1 projects in EBCE service territory.*

# Evaluation Process

- **Evaluation Rubric scored 3 areas:**
  - Counterparty Execution, Offer Competitiveness, and Project Development Status
  - Multiple items under each area
- **Two reviewers were assigned to each project.**
- **Staff reviewed all submitted information and provided scores for all categories except for Term Sheet Markups and NPV.**
  - Each item has 10 point max. at its own weighting.
  - Term Sheet Markups were scored by one assigned reviewer.
  - NPV scores were directly incorporated into overall project score with a weighting of 45%.
    - The Net Present Value was calculated based on simulations on 3 different forward curves
    - For each forward curve we took a weighted average of the P5 (50%), P50 (25%), and P95 (25%) and then took a simple average across the 3 curves
    - We normalized this number on a \$/MW basis and the projects were then assigned a 0-10 score based on the NPV distribution
- **Scoring and rubric were consistent with the selection process for the 2018 California Renewables RFP and 2020 RPS and Storage RFO.**

# Projects Proposed for Execution

Seeking approval for three contracts: one Energy Storage Agreement and two RA-only Agreements (ESA, submitted into EBCE and SJCE's Joint 2022 Long-Term Resource RFO; RA-only submitted bilaterally)

- Kola Energy Storage: 20 year, 125 MW / 500 MWh energy storage agreement (ESA) in Tracy, CA. Expected to be operational in June, 2025. Developed by NextEra Energy.
- Ocotillo Solar: 10-year, 50 MW RA-only from solar and battery storage project in San Diego County. Expected to be operational August, 2023. Developed by Vitol.
- Sun Streams 2: 10-year, RA-only from solar project in Maricopa County, Arizona. Already operational. Developed by Longroad Energy.



# NextEra – Kola Energy Storage

## Project Details

Attachment Staff Report Item 13D



- Selected via the 2022 Joint CCA Long-Term Resource RFO
- Energy Storage Agreement for 125 MW / 500 MWh battery storage project in San Joaquin County (Tracy), CA
- Total site is expected to be 400 MW; EBCE's 125 MW contract is for a standalone resource
- 20-year contract
- Expected Commercial Operation Date is June 1, 2025
- Project has an executed interconnection agreement.
- Project will execute a Project Labor Agreement with local unions.
- The contracting entity under NextEra Energy is Kola Energy Storage II, LLC.



# NextEra Company Overview

- NextEra Energy is one of the world's largest owner/operators of renewable energy projects.
- NextEra is a holding company; it includes ownership of Florida Power & Light.
- NextEra owns and operates 28,000 MW of renewable generation resources with an additional 18,000 MW under development.
- NextEra has 4,500 MW of battery storage in operation and under development
- Through 2022, NextEra had ~\$55 B in planned investments in North American infrastructure including generation, storage and transmission assets.
- NextEra is a large, diversified energy company. Across its business units, NextEra employs 266 people in California. development team is comprised of three individuals who all live in the state.
- NextEra has experience with CCAs; owns and operates generation and storage projects with:
  - SVCE, MCE, CleanPower SF, SCP, CPA, VCE, Pioneer, CCCE, PCE

# Vitol – Ocotillo Solar Project Details

- Originated and negotiated bilaterally
- Contract for 50 MW Resource Adequacy from solar and energy storage project in San Diego County
- Total project size is 50 MW solar, 50 MW/200MWh energy storage
- 10-year contract
- Expected Commercial Operation Date is August 1, 2023
- Project has an executed interconnection agreement.
- Project has an executed Project Labor Agreement with local unions. Labor procurement plans include a local diverse workforce.
- The contracting entity under Vitol is Ocotillo Solar LLC.

# Vitol Company Overview

- Founded in 1966, Vitol is a global energy business and active electricity market participant.
- Vitol's renewables platform has over 750 MW of wind and solar projects in operation and over 2 GW in development pipeline across the US.
- Vitol's parent company is investment grade.
- Vitol's California development team is comprised of 5 individuals who live in the state. The project's EPC contractor has 155 California employees. The project will have 130 individuals on site at its peak.
- Vitol has experience with CCAs, PUD's, IOU's and Retail Providers in California.

# Longroad – Sun Streams 2

## Project Details

- Originated and negotiated bilaterally
- Contract for Resource Adequacy from solar project in Maricopa County, AZ
- Total project size is 150 MW
- 10-year contract
- Project is operational as of July 1, 2021
- The contracting entity under Longroad Energy is Sun Streams 2, LLC.

# Longroad Company Overview

- Longroad is led by former executives of First Wind Energy.
- Since 2019, Longroad has brought to eleven major projects to COD, including 1.9 MW of solar projects, with over 400 MW delivering to CAISO
- Longroad has significant experience as owner and operator of solar and wind projects. Longroad is currently contracted to operate 3.5 GW of operating or under-construction solar and wind projects across the United States, of which Longroad owns 1.8 GW.
- Longroad has experience with CCAs with at least 1 executed contract with CCAs:
  - PPA with MCE; 211 MW solar project that achieved COD 2020

# Portfolio Characteristics

Attachment Staff Report Item 13D

	Developer	Project	Location	Product	Offtake	COD	Nameplate	Sept NQC
Gener- -ation		None at this time						
Storage	<b>NextEra Energy</b>	Kola Energy Storage	<b>San Joaquin County (Tracy), CA</b>	ESA	EBCE	6/1/2025	125 MW	116.75
RA Only	<b>Vitol</b>	Ocotillo Solar	<b>San Diego County, CA</b>	RA only	EBCE	8/1/2023	50 MW	50
	<b>Longroad</b>	Sun Streams 2	<b>Maricopa County, AZ</b>	RA only	EBCE	7/1/2021	150 MW	16.65
	<b>Broad Reach Power</b>	Noosa Energy Storage	<b>San Joaquin County, CA</b>	RA only	EBCE & SJCE	6/1/2024	30 MW	27
	<b>Broad Reach Power</b>	Cascade Energy Storage	<b>San Joaquin County, CA</b>	RA only	EBCE & SJCE	6/1/2024	5 MW	4.5

# Next Steps

- Finalize the three contracts and execute agreements.
- Complete negotiations of projects under consideration. Anticipate final presentations to Board through the winter.
- Assess projects as they hit key milestones and mature further.
- Update filing to CPUC on status of 2021-2023 and 2023-2026 Electric Reliability Requirements due February 1, 2023.



# Appendix

# Portfolio Summary

Attachment Staff Report Item 13D

DEVELOPER	PROJECT NAME	TECHNOLOGY	NAMEPLATE MW	STORAGE MW/MWH	COUNTY	ONLINE	TERM (YEARS)
<b>Clearway Energy Group</b>	Golden Fields Solar	Solar	112	N/A	Kern	December 2020	15
<b>Greenbacker Capital</b>	Scott Haggerty Wind Energy Center	Wind	57.5	N/A	Alameda	July 2021	20
<b>Convergent Energy and Power</b>	Henrietta D Energy Storage	Storage	0	10/40	Kings	January 2022	15
<b>Pattern Energy</b>	Tecolote Wind	Wind	100	N/A	Torrance and Guadalupe (NM)	December 2021	10
<b>Idemitsu Renewables</b>	Tulare Solar Center	Solar	56	N/A	Tulare	May 2022	15
<b>Terra-Gen</b>	Sanborn Storage	Storage	0	47/188	Kern	December 2022	12
<b>EDP Renewables</b>	EDPR Solar Park	Solar + Storage	100	30/120	Fresno	December 2022	20
<b>Terra-Gen</b>	Edwards Solar	Solar + Virtual Storage	100	TBD	Kern	December 2022	15
<b>Clearway Energy Group</b>	Daggett 3	Solar+ Storage	50	12.5/50	San Bernadino	April 2023	15
<b>Intersect Power</b>	Oberon	Solar+ Storage	125	125	Riverside	January 2024	10+
<b>LS Power</b>	Tumbleweed Energy Storage	Storage	0	50/200	Kern	June 2024	15



## Staff Report Item 14

TO: East Bay Community Energy Board of Directors

FROM: Marie Fontenot, Vice President of Power Resources

SUBJECT: PG&E Modified CAM Agreement (Informational)

DATE: January 18, 2023

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### Recommendation

Accept the informational update on PG&E Modified CAM Agreement.

### Background and Discussion

East Bay Community Energy (EBCE) is eligible to enter into a bilateral agreement with PG&E to acquire Resource Adequacy (RA) due to EBCE's load expansion that occurred in 2021, per CPUC Decision 22-05-015 Decision on Modified Cost Allocation Mechanism for Opt-Out and Backstop Procurement Obligations. To address load migration, LSE's have the option to receive a one-time allocation of RA capacity associated with IOU procurement for D.19-10-001. Due to the time sensitivity of the one-time allocation, EBCE executed on an agreement with PG&E on December 27, 2022. The details are below:

15-year RA agreement with PG&E for EBCE's share (3.2%) of available capacity from PG&E's D.19-10-001 resource pool, comprised of lithium-ion battery storage projects. Price is the Market Price Benchmark for that calendar year, as determined through the Power Charge Indifference Adjustment (PCIA) proceeding.

### Fiscal Impact

Estimated neutral fiscal impact since contract price is the Market Price Benchmark for RA.



## Staff Report Item 15

**TO:** East Bay Community Energy Board of Directors

**FROM:** JP Ross, VP Local Development, Electrification and Innovation

**SUBJECT:** Authorizing CEO to negotiate and execute agreements with Sunwealth LLC and Gridscape Solutions for the Resilient Critical Municipal Facilities Program

**DATE:** January 18, 2023

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### Recommendation

Approve a Resolution authorizing the CEO to negotiate and execute a Power Purchase Agreement with Sunwealth LLC to own and operate solar + storage projects for the Resilient Critical Municipal Facilities Program.

Approve a Resolution authorizing the CEO to negotiate and execute a Consulting Services Agreement with Gridscape Solutions to develop and submit Interconnection Applications to secure NEM 2.0 status for Phase 1 projects in the Resilient Critical Municipal Facilities Program, compensation under this Agreement will not exceed \$1,000,000.

### Background and Discussion

The Resilient Municipal Critical Facilities Program (Program) resulted from a desire by East Bay Community Energy (EBCE) to reduce barriers to solar and solar + storage deployments for local governments in our territory. Local governments often do not have the available staff time, financial resources, or technical expertise to advance these types of projects and may have relatively small facilities with commensurately small projects that cannot take advantage of bulk purchasing. Similarly, solar and storage contractors face high customer acquisition and initial project development costs, which are relatively higher for smaller facilities that cannot support larger solar deployments.

Recognizing these barriers, EBCE has undertaken this Program with the following goals:

- Reduce the burden and associated costs to both local governments and developers for site identification, evaluation, and design work by EBCE conducting this initial work with the services of an established solar design and engineering firm
- Reduce costs by aggregating sites into a larger portfolio for volume purchasing power
- Reduce PPA contracting costs by EBCE serving as a single counterparty for all the customers and sites in the portfolio
- Comply with local government public contracting requirements with uniform contractual terms such as prevailing wage
- Reduce project drop-out risk by obtaining formal city council resolutions from Cities to execute contracts as long as EBCE can provide PPA pricing that results in net financial benefits

With the goals stated above, EBCE began working with its member cities in 2019 to assemble a list of hundreds of critical facilities across its service territory, ranging from fire stations and emergency operation centers, to libraries and community centers. An initial portfolio-level assessment examined each site's natural hazard exposure, service to the community, and solar and battery potential, providing a set of key sites with preliminary energy resilience system sizes. This preliminary assessment identified an aggregated capacity of approximately 10 MW of solar and 25 MWh of storage across EBCE's member cities. After subsequent rounds of engagement with city leaders, facility managers and other stakeholders EBCE selected four cities to develop a proof of concept pilot (Phase 1) to confirm that EBCE could deliver value as a centralized procurement entity for behind the meter solar + storage projects.

The solar and solar + storage systems are intended to be designed and operated with the following benefits in mind:

1. Provide resiliency back-up for critical loads in the event of grid outages for sites with battery storage.
2. Reduce customer energy bills through Time-of-Use (TOU) energy and demand charge reductions.
3. Manage battery discharge during TOU periods to reduce both customer bills and EBCE wholesale energy procurement requirements (i.e., resource adequacy capacity requirements).
4. Reducing reliance on existing diesel-powered generators, minimizing CO2 equivalent emissions.

### **Portfolio Cost Effectiveness**

In order to facilitate procurement of energy projects on behalf of member agencies, EBCE utilized Government Code Section 4217.10 which allows for the expedited procurement of energy conservation projects by municipal agencies as long as the energy project can provide financial savings over the operating lifetime.

Therefore, EBCE has a requirement that any solar + storage portfolio that we bring to a city shall not increase costs over the lifetime of the project compared to current and future projected operational costs.

### PPA Development

EBCE determined that the best way to minimize costs for cities would be to develop a standardized 'EBCE PPA' that EBCE could sign with both the cities and the selected counterparty. This structure, called a sleeve, allows EBCE to be the buyer of energy services from a developer and a seller to our cities, while minimizing risk to EBCE.

EBCE developed a standard PPA with the Phase 1 city attorneys that could be issued in a Request for Offers (RFO) so that developers would understand the terms of engaging with EBCE and our member agencies in this program.



Figure 1: EBCE PPA Sleeve Structure

### Pre-Development Investment to Reduce Risk (and Cost)

A key to reducing risk (and cost) for developers in any solar projects is to ensure that customer will sign the agreement and projects are buildable. EBCE resolved the first issue with the pre-negotiated PPA and city council resolutions confirming city participation with projects that meet Government Code Section 4217.10. The final piece was to determine which projects would be buildable.

Therefore, EBCE issued a solicitation in April 2021 for engineering and project development services to assist EBCE in compiling the best portfolio of sites for development.

EBCE contracted with engineering consulting firms ARUP and EcoMotion to work with EBCE and city staff to compile all available documentation on city facilities, develop preliminary pricing estimates and complete site visits on all possible sites to determine which sites could be built. The firms then worked with EBCE to develop a Request for Offers with sufficient detail so developers could provide EBCE with a firm PPA price without needing to expend resources to visit all the portfolio sites.

**2022 Request For Offers**

EBCE issued an RFO on August 26, 2022, to solicit proposals to deliver cost effective solar + storage Power Purchase Agreements (PPAs) for the Program.

The core portfolio consists of four (4) city-specific portfolios (for JPA members San Leandro, Berkeley, Hayward, and Fremont) representing 22 facilities and approximately 2.3 MW of solar photovoltaics and 1.9MWh of battery storage. An additional 8 projects with 0.8 MW of solar photovoltaics and 4.3 MWh of battery storage was identified for these four cities as potential expansion opportunities pending grant funding and/or cost effectiveness of the bids. EBCE was able to secure \$2M in Federal funding from congressionally-directed spending to support the Phase 1 procurement and is pursuing the largest cost effective portfolio possible in Phase 1.

	Base Case	Additional Funding Case
# of Sites	22	30
MW PV	2.3 MW	3.1 MW
MWh Storage	1.9 MWh	6.2 MWh

Figure 1: Portfolio sizes issued in the RFO

EBCE received three bids in response to its RFO for solar and storage PPAs. After reviewing bids and interviewing respondents EBCE has selected the development team of Gridscape Solutions (Gridscape) as the project developer and Sunwealth LLC (Sunwealth) as the project owner. Gridscape is a local developer, located in Fremont, that has extensive experience developing solar + storage microgrids for public agencies including the City of Fremont and has committed to EBCEs prevailing wage requirements in developing EBCE’s projects. Sunwealth is a solar + storage PPA owner located in Connecticut that has deployed over 500 solar projects, totaling over 26MW of distributed solar deployments, many of which include storage. Sunwealth has reviewed the EBCE standard PPA and provided comments to EBCE. The PPA pricing provided should allow for projects to be built in all Phase 1 cities such that the cost effectiveness threshold will be achieved. In addition, Sunwealth has provided comments to the EBCE PPA and we are confident that we are unlikely to need to

revise the PPA that EBCE had previously agreed to with the Phase 1 cities, expediting the ability to sign the PPA with all parties in a timely manner.

### **Program Expansion**

Considering the strong progress with Phase 1 cities, EBCE has moved aggressively to expand on the Program and add additional city projects in Phase 2. EBCE has reached out to staff in all remaining EBCE member agencies to determine when cities would have the ability to participate in the Program. At this point, the four Cities of Emeryville, Livermore, Oakland, and Pleasanton have already passed city council resolutions to participate in a Phase 2 procurement. Staff is working with staff and departments in Phase 2 cities to compile a portfolio of facilities to include in the Program.

### **Interconnection Applications to Secure NEM2.0**

California will soon be revising the Net Energy Metering (NEM) regulations, moving from NEM 2.0 to NEM 3.0. This change will likely lower the value of solar and storage projects to EBCE's customers. Though the change may not threaten the viability of this portfolio, the change to NEM 3.0 could reduce the number of projects that meet EBCE's cost effectiveness requirements. EBCE can secure NEM 2.0 status for Phase 1 projects by submitting Interconnection Applications to PG&E by March 15, 2023. Since EBCE has invested in pre-development activities we have sufficient information to submit the applications.

To secure engineering services to submit the interconnection applications before the March 15 deadline while we complete the negotiation of the PPA, EBCE is proposing to sign a consulting services agreement with Gridscape. This will allow Gridscape to provide these services to EBCE and pursue treatment of the Phase 1 projects under NEM 2.0. Upon signing the PPA, EBCE will receive a refund for the interconnection filing expenses, since they would normally be included in the PPA rate.

EBCE will request sufficient budget in the consulting services agreement with Gridscape to allow for submission of interconnection applications for both Phase 1 and Phase 2 projects. There may not be sufficient time to complete applications for Phase 2 projects based on the level of detail currently available on the portfolio, but EBCE wants to be prepared to secure NEM 2.0 for as many systems as possible.

### **Fiscal Impact**

The PPA would have minimal budget impact as EBCE is acting as pass-through entity for PPAs, which will pay back project development costs over time, while recovering EBCE's development and administrative costs related to the Phase 1 of the Project.



For the interconnection application services, the impact of the \$1,000,000 request would be a temporary outlay to improve overall value from the Phase 1 projects and potentially Phase 2 projects, to be reimbursed once the PPA is signed. PPA execution is planned for Q2 2023.

### **Attachments**

- A. A Resolution of the Board of Directors of the East Bay Community Energy Authority Authorizing the CEO to Negotiate and Execute a Power Purchase Agreement with Sunwealth LLC.
- B. Resolution of the Board of Directors of the East Bay Community Energy Authority Authorizing the CEO to Negotiate and Execute a Consulting Services Agreement with Gridscape Solution
- C. Presentation

**RESOLUTION NO. R-2023-XX**

**A RESOLUTION OF THE BOARD OF DIRECTORS**

**OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO NEGOTIATE AND EXECUTE A POWER PURCHASE AGREEMENT WITH SUNWEALTH 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 been developing the Resilient Critical Facilities Program (“The Program”) to develop cost effective solar + storage Power Purchase Agreements (“PPAs”) on municipal critical facilities to deliver resilience and energy security to member agencies and their residents,

**WHEREAS** Four member agencies; Berkeley, Fremont, Hayward and San Leandro (Phase 1) have all passed city council resolutions to participate in The Program as long as EBCE can deliver solar + storage projects that do not cost more the Phase 1 cities would pay for grid supplied electricity during the course of the PPAs,

**WHEREAS** EBCE has developed a portfolio of sites and a standard form PPA with Phase 1 agencies,

**WHEREAS** EBCE issued a Request for Offers (“RFO”) on August 26, 2022, to solicit proposals to deliver cost effective solar + storage PPAs for The Program,

**WHEREAS** EBCE received a conforming bid that meets EBCE’s requirements for cost effectiveness, installation quality and long-term ownership capabilities from Gridscape Solutions (“Project Developer”) and Sunwealth LLC (“Project Owner”) and EBCE is in the process of negotiating the final details of the PPA,

**WHEREAS** Timeliness is of the essence in signing the PPA with the developers.

**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 20 or 25 year Power Purchase Agreement with Sunwealth LLC for the development and operation of EBCE’s Phase 1 Resilient Critical Municipal Facilities Program.

ADOPTED AND APPROVED this 18<sup>th</sup> day of January, 2023.

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Dan Arriola, Chair

ATTEST:

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Adrian Bankhead, Clerk of the Board

**RESOLUTION NO. R-2023-XX**

**A RESOLUTION OF THE BOARD OF DIRECTORS**

**OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO NEGOTIATE AND EXECUTE A CONSULTING SERVICES AGREEMENT WITH GRIDSCAPE SOLUTIONS**

**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 been developing the Resilient Critical Facilities Program (“The Program”) to develop cost effective solar + storage Power Purchase Agreements (“PPAs”) on municipal critical facilities to deliver resilience and energy security to member agencies and their residents,

**WHEREAS** Four member agencies; Berkeley, Fremont, Hayward and San Leandro (Phase 1) have all passed city council resolutions to participate in The Program as long as EBCE can deliver solar + storage projects that do not cost more the Phase 1 cities would pay for grid supplied electricity during the course of the PPAs,

**WHEREAS** EBCE has developed a portfolio of sites and a standard form PPA with Phase 1 agencies,

**WHEREAS** EBCE issued a Request for Offers (“RFO”) on August 26, 2022, to solicit proposals to deliver cost effective solar + storage PPAs for The Program,

**WHEREAS** EBCE received a conforming bid that met the requirements for cost effectiveness, installation quality and long-term ownership capabilities from Gridscape Solutions (“Project Developer”) and Sunwealth LLC (“Project Owner”) and EBCE is in the process of negotiating the PPA,

**WHEREAS** California’s Net Energy Metering program will be modified from NEM 2.0 to NEM 3.0 in the next 3-6 months, reducing the value of solar + storage projects to customers,

**WHEREAS** NEM 2.0 for Phase 1 projects can be secured by submitting interconnection applications to PG&E before March 15, 2023,

**WHEREAS** EBCE needs to have an agreement in place for the delivery of interconnection applications while the PPA is being finalized,

WHEREAS EBCE will receive a refund for the cost of filing the interconnection applications after the PPA is signed,

**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 Consulting Services Agreement with Gridscape Solutions for the development and submission of interconnection applications for The Program for an amount not to exceed \$1,000,000.

ADOPTED AND APPROVED this 18<sup>th</sup> day of January, 2022.

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Dan Arriola, Chair

ATTEST:

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Adrian Bankhead, Clerk of the Board

JANUARY 2023

# Resilient Critical Municipal Facilities Report



# Resilient Critical Facility Program Overview

## Working to deliver Solar and Storage for municipal critical facilities

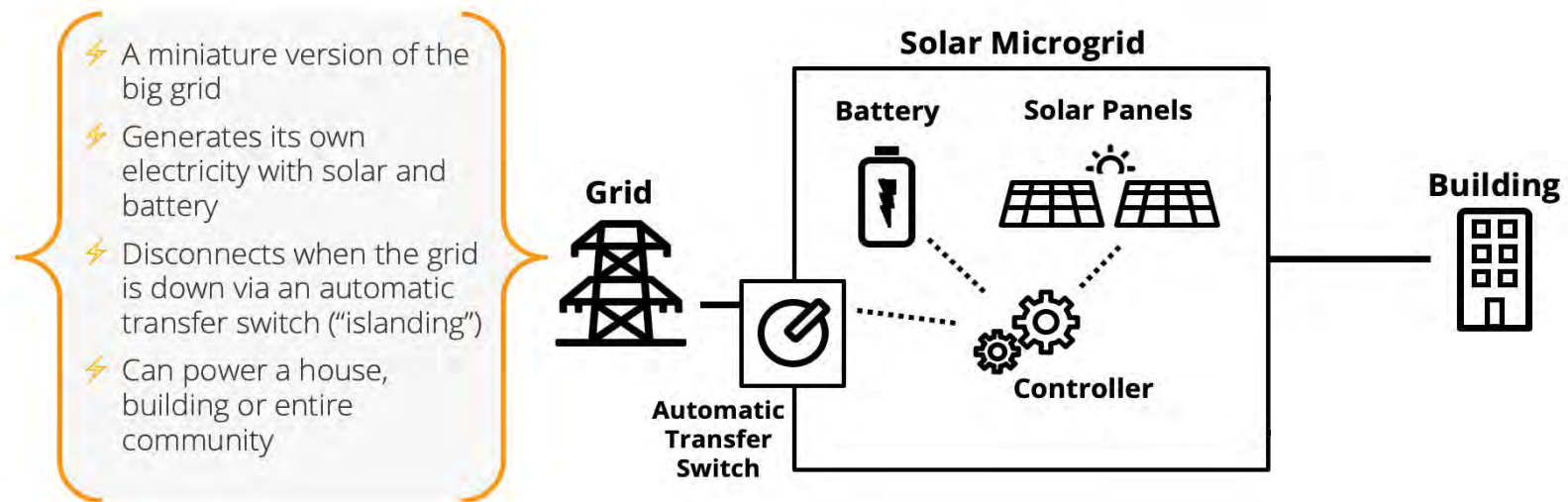
- Assessed 300+ facilities so far
- Will be working with all interested member agencies to develop Solar + Storage in multiple phases
- Phase 1 is 4 Cities: Fremont, Hayward, San Leandro and Berkeley
- Developing Phase 2 with additional Cities

## Extensive diligence on facilities to hone the portfolio, speed up procurement and lower costs

- Procurement pathway based on CA § 4217.20 (cost neutrality)
- Phase 1; 30 facilities for 3.1MW PV + 6.2MWh battery storage
- Completed site visits with independent engineers to de-risk the project
- Developed standard form PPA with our Cities to reduce legal transactions costs
- EBCE procurement at volume will reduce costs for Cities to develop resilience

# What is a Microgrid ?

Ongoing program to provide clean energy for critical municipal facilities to advance energy resilience and climate action.



FREEING  
ENERGY



# Standard PPA Sleeve

EBCE pre-negotiating a standard PPA with Phase 1 City attorneys to expedite procurement and contract execution with a PPA asset developer/owner

- EBCE as 'seller' to Cities provides ownership certainty
- Same terms between EBCE and each counterparty ("sleeve") minimizes risk of ownership for EBCE
- Reduces legal costs for all parties by having a standard contract for ~30 projects
- EBCE issued PPA with Request for Offers (RFO) so that bidders were clear on the contract terms they would be entering with EBCE



# Request for Offers (RFO) Process

EBCE issued RFO in July 2022

- Coverage: Phase 1 Cities: Berkeley, Hayward, Fremont, San Leandro
- Response: Received 3 bids, moved 2 bids to Stage 2, and providing detailed facility and usage information for developers to finalize firm pricing
- EBCE applied for and received \$2M in federal appropriations in the 2023 Federal budget to increase the total size of the portfolio
- All 30 projects are expected to be viable and meet the cost effectiveness threshold

	Base Case	Additional Funding Case
<b># of Sites</b>	22	30
<b>MW PV</b>	2.3 MW	3.1 MW
<b>MWh Storage</b>	1.9 MWh	6.2 MWh

Figure 2: Portfolio sizes based on available funding

# Selected Counterparties

## Gridscape Solutions - "Developer"

- Fremont-based Small Local Emerging business located in Fremont operating since 2013
- Well-established microgrid developer that is already operating microgrids for City of Fremont and local agencies across California
- Will be operating more than 35 microgrids in California within the next 12 months
- Has agreed to EBCE labor requirements to pay prevailing wage and use of local subcontractors

## Sunwealth LLC - "Asset Owner"

- Connecticut-based clean energy investment firm founded in 2014
- Well-established team of project developers and investors with long history of solar asset management
- Operating over 500 commercial solar and solar + storage projects with over 26 MW of operating assets

# Securing NEM 2.0

- Proposed Net Energy Metering (NEM) rules may reduce the value of solar + storage projects by 10-30%
- Interconnection (IC) applications filed by April 15 can secure NEM 2.0 status for facilities (EBCE plans to file by March 31)
- EBCE plans to work with Gridscape to submit as many IC applications for Phase 1 and, potentially, Phase 2 projects as feasible with the currently available facility information

# Requested Actions

## 1- PPA

Authorize CEO to negotiate and execute PPA with Sunwealth LLC for 20 to 25-year PPA for Phase 1 Cities

- Financial impact is minimal as EBCE is pass through entity for PPA with cost recovery built into PPA pricing

## 2- NEM Interconnect Applications

Authorize CEO to negotiate and execute CSA to complete and submit IC applications for for Phase 1 and Phase 2 Cities

- NTE of \$1,000,000 will provide budget for ~100 IC Applications
- EBCE to be reimbursed for expenditure when PPA is signed