



Board of Directors Meeting

Wednesday, February 15, 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.

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.

4. Closed Session

Conference with Labor Negotiators pursuant to Government Code 54957.6. (Labor negotiators: Jen Cavanaugh) (Unrepresented employee).

5. Report out of Closed Session

CONSENT AGENDA

6. Approval of Minutes from January 18, 2023

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. Frontier Energy Amendment to CSA

Authorization to extend the term, expand the scope, add compensation

10. RE Scarlet 1, LLC Contract Amendment

Adopt a Resolution authorizing the Chief Executive Officer (CEO) to negotiate and execute an Amendment to an existing Power Purchase Agreement (PPA) with RE Scarlet 1, LLC.

11. Consulting Services Agreement for Brand and Visual Identity Services with Landscape Studio LLC

Adopt a Resolution authorizing the CEO to negotiate and execute an Agreement for brand and visual identity services with Landscape Studio LLC for the purpose of accelerating customer engagement for the contract period of one year, with an option to extend one additional year, in the amount not to exceed \$300,000.

12. Travel Reimbursement Policy

Adopt Travel Reimbursement Policy for Board and Community Advisory Committee

13. Treasurer's Report

Receive report on EBCE's cash position

REGULAR AGENDA

14. CEO REPORT

15. Community Advisory Committee Report

16. Mid-Year Budget FY2022/23 (Informational Item)

Report on the status of the current FY budget through December, 2022

17. Discussion of In-Person and Teleconference Board Meetings Options After the End of the State of California COVID-19 State of Emergency, and Adopt Post-COVID

Emergency Attendance Policy for East Bay Community Energy Board and Brown Act Committees (Action Item)

Provide direction to staff and adopt a Resolution approving a POST-COVID Emergency Attendance Policy (Policy) for the Board and East Bay Community Energy Brown Act committees to provide a policy with respect to conducting public meetings after the end of the State of California's COVID-19 State of Emergency, which is expected to occur on February 28, 2023.

18. **Long-Term Contracts for Approval (Action Item)**
2022 RFO Long Term Contracts for Approval
19. **Election of Chair/Vice Chair and Appointment of Executive Committee Members (Action Item)**
20. **CEO Contract Amendment**
21. **Board Member and Staff Announcements including requests to place items on future Board agendas**
22. **Adjournment to Wednesday, March 15, 2023 at 6:00 pm**



Draft Minutes

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Councilmember Ben Barrientos was sworn in as the new EBCE Director for the City of Livermore.

Vice-Mayor Jack Balch was sworn in as the new EBCE Director for the City of Pleasanton

Councilmember Matt Bedolla was sworn in as the new EBCE Director for the City of Tracy.

1. Welcome & Roll Call

Present: Members: Hu (Dublin), Marquez (Hayward), Barrientos (Livermore), Jorgens (Newark), Kalb (Oakland), Balch (Pleasanton), Patino (Union City), Bedolla (Tracy), Eldred (Community Advisory Committee and Acting Chair Cavanaugh (Piedmont))

Excused: Members: Valle (Alameda County), Bartlett (Berkeley), Bauters (Emeryville), Cox (Fremont), TBD (San Leandro)

The Member for San Leandro has not been assigned,

2. Pledge of Allegiance

Member Marquez (Hayward) led the Board in the Pledge of Allegiance.

3. Public Comment

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Tom Kelly spoke regarding greenhouse gas emissions produced by EBCE's default product, Bright Choice 100. Tom Kelly stated that in 2020 and 2021, the greenhouse gas emissions associated with Bright Choice exceeded PG&E by almost five times. Tom Kelly stated that other CCAs are far below PG&E in terms of greenhouse gas emissions. Tom Kelly asked Board members to require that Bright Choice meet or exceed GHG reduction targets.

Corina Lopez, the prior EBCE Board Chair, encouraged new Board members to consider moving their jurisdictions to 100% renewable for both residential and industrial if their cities have not done so already. Corina Lopez stated that it is gratifying to know that the energy that your city consumes is procured from renewable sources.

The clerk read the following written public comment from Edward F. Dijeu (attached) into the record:

Edward F. Dijeu spoke regarding the new NEM 3.0 policies, stating that EBCE, as a not-for-profit provider of low carbon energy, should offer new and renewing NEM customers at least 12 cent per kilowatt hour tariff rate for their excess energy.

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

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.

Due to technical difficulties, Member Barrientos (Livermore) was unable to communicate with the Board after roll call.

Member Patino (Union City) motioned to approve the Consent Agenda. Member Bedolla (Tracy) seconded the motion.

Consent Agenda Item 4 was approved by a vote of 8/0.

Member Balch (Pleasanton) abstained from voting on Consent Agenda Item 4 - Approval of Minutes from December 14, 2022 and December 16, 2022.

Consent Agenda Items 5 - 10 were approved by a vote of 9/0.

Excused: Members Valle (Alameda County), Bartlett (Berkeley), Bauters (Emeryville), Cox (Fremont), Barrientos (Livermore) and TBD (San Leandro)

REGULAR AGENDA

11. CEO REPORT

A. New Staff

CEO Chaset stated that no meetings of the Executive Committee or the Subcommittees are currently scheduled. Executive and subcommittee meetings will be scheduled after all members have been seated.

CEO Chaset introduced new EBCE staff members Shannon Rivers, Senior Power Resources Manager, and Jason Zhang, Power Resources Data Analyst, to the Board of Directors.

12. Community Advisory Committee Report

CAC Chair Eldred welcomed new Board members to meet with Community Advisory Committee members. CAC Chair Eldred stated that staff requested that the CAC place Community Innovation Grants on a future agenda. CAC Chair Eldred also stated that at the Tuesday, January 17, 2023 CAC meeting, public comment mostly centered around concerns about the new NEM 3.0 policies and questions about emissions related to EBCE's power mix.

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.

The Board discussed:

- NextEra Energy (Kola Energy Storage) contract structure
- Is there a Project Labor Agreement (PLA) for the Longroad Energy (Sun Streams 2) project?
- Which projects require Project Labor Agreements?
- Project-related challenges and risks

CAC Chair Eldred stated that the CAC supported the staff recommendation.

Member Marquez (Hayward) motioned to approve the staff recommendation. Member Hu (Dublin) seconded the motion, which was approved 9/0.

Excused: Members Valle (Alameda County), Bartlett (Berkeley), Bauters (Emeryville), Cox (Fremont), Barrientos (Livermore) and TBD (San Leandro)

14. PG&E Modified Cost Allocation Mechanism (CAM) Agreement (Informational Item)

No comments were made for this item.

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 Gridscape Energy Solutions to provide Single Line

The Board discussed:

- Phase 1 requests from cities
- If there are any expenses associated with Resilient Critical Facilities that will need to be paid from general city funds
- For the interconnection applications that are due before April 15, if staff know which cities are going to be considered for Phase 2
- Timeline for Phase 3 city engagement
- City staff positions that interface with EBCE to negotiate agreements for Resilient Critical Facilities
- Prepayment or reimbursement structures of Phase 2 contracts
- The City of Tracy's engagement with Resilient Critical Facilities projects?

CAC Chair Eldred stated that the CAC is excited to see the microgrid project moving forward, and applauded staff's forward thinking to take advantage of NEM 2.0 for second round cities. Chair Eldred requested follow up to a request made by the Chair of the Board in 2022 to apply for the Transformative Communities Grant to fund community based microgrids. Chair Eldred also stated the Center for Biological Diversity filed a challenge against the CPUC decision for NEM 3.0, and that she looked forward to hearing from staff about their participation in that challenge.

Jessica Tovar asked when EBCE will start to work with community-based organizations to install microgrids? Jessica Tovar stated that as far back as 2021, several community-based organizations along with the East Bay Clean Power Alliance advocated for EBCE to provide microgrids for community-based organizations. In 2022, Jessica Tovar asked EBCE to apply for funding under the Transformative Climate Communities Grant to fund these community based microgrids. Jessica Tovar stated that she asked EBCE to follow up, but never heard back from EBCE staff. Jessica Tovar stated that cooperation is needed so that staff and community-based organizations can actualize the benefits of having resilient clean energy in vulnerable communities.

Vipul Gore, President and CEO of Gridscape Solutions, stated that Gridscape Solutions is excited about this opportunity and grateful that EBCE selected them to install state of the art solar microgrids in East Bay cities. Vipul Gore said that the innovative portfolio approach that has been developed will serve as a business model for other CCAs within the state.

Member Tiedemann (Albany) motioned to approve the staff recommendation. Member Bedolla seconded the motion, which passed 9/0.

Excused: Members Valle (Alameda County), Bartlett (Berkeley), Bauters (Emeryville), Cox (Fremont), Barrientos (Livermore) and TBD (San Leandro)

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

Member Marquez (Hayward) asked for staff to respond to the Board and Jessica Tovar's inquiry about applying for the Transformative Climate Communities grant. Member Marquez also asked for staff to seek out additional opportunities that can serve as a vehicle to fund community-based microgrids. Member Bedolla (Tracy) supported Member Marquez's request.

Member Bedolla (Tracy) noted the work that is being done in the City of Tracy to move from Bright Choice to Renewable 100.

16. Adjournment to Wednesday, February 15, 2023 at 6:00 pm.

Written Public Comment submitted by Edward F. Dijeau on January 18, 2023 at 5:12pm:

On April 14th, 2023, NEM 2.0 will end, for new customers, and NEM 3.0 will begin for all new and future customers as well as those who have completed 20 years on either NEM 1.0 or NEM 2.0 and what will EBCE do for those customers? Since EBCE is the "Energy only" supplier and EBCE, as in the past, given a better value in TRU-UP costs for the remaining credits Rooftop Solar Customers have placed onto the grid and banked. EBCE is supposed to be the low carbon provider and Rooftop Solar is exactly that and the compensation should be equivalent for the Energy portion as the tariff is to consuming customers since EBCE is a nonprofit and is not profit motivated like PG&E. EBCE has been giving millions of dollars to other non-profits from its revenues and I believe something should go back to the carbon fee rooftop solar customers withing the EBCE service areas before being handed out to others who do not provide green energy to EBCE. The 75% take away that PG&E is going to take is nothing short of extortion on the new homes, being built in California, that are required to have rooftop solar, and the costs will be placed into 30-year mortgages that will cost \$1,200.00 or more in interest a year to start but only give a \$600.00 to \$800.00 payback under NEM 3.0 and that is not fair. EBCE should, offer all those new and renewing NEM customers, at least the 12 cent per kilo watt hour tariff rate for their excess electricity, not the proposed PG&E payments of only 6 to 8 cents per kilo watt hour that the CPUC has regulated after the 75% discount.



Consent Item 7

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: February 15, 2023

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

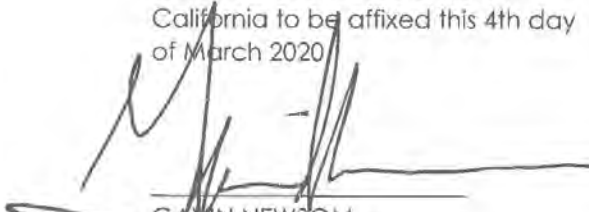
notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

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

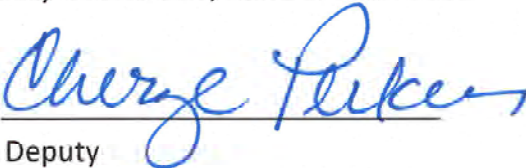
NOES: None

EXCUSED: Supervisors Chan and Miley - 2

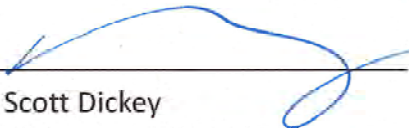


Richard Valle, President of the Board of Supervisors

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;

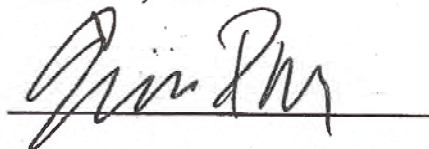
WHEREAS, based on the United States Department of Health and Human Services declaration and the Centers for Disease Control and Prevention statements, and multiple cases of COVID-19 and evidence of community transmission in the region, there is an ongoing risk and likelihood of additional COVID-19 positive 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 1st, 2020 throughout the County of Alameda;

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

BY:



Name: Dr. Erica Pan

Title: Interim Health Officer

Public Health Department, County of Alameda

DECLARATION OF A LOCAL HEALTH EMERGENCY

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

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

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

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

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

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


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

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

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

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

BY:



Name: Dr. Erica Pan

Title: Interim Health Officer

Public Health Department, County of Alameda



Consent Item 8

TO: East Bay Community Energy Board of Directors
FROM: Nick Chaset, Chief Executive Officer
SUBJECT: Contracts Entered Into
DATE: February 15, 2023

RECOMMENDATION

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

C-2023-001 Maher Accountancy (San Rafael) First Amendment to CSA extends the term for one additional year through December 31, 2023, increases the not-to-exceed amount by \$270,400 for the term of January 1, 2023 to December 31, 2023, for a total amount not to exceed \$525,400,

C-2023-002 EdenRed Benefits (Waltham, MA) Service Agreement provides commuter benefits services for qualifying & participating employees - transit, parking and bicycling benefits. Cost will be \$3 or \$4 per month per participating employee with a minimum cost of \$100 per month.

C-2023-003 Formstack Master Services Agreement to license software that operates within Salesforce and supports the creation and presentation of data input forms that can reside on our website, and allows customers to input information (for example an application for a program) that is then fed directly into Salesforce. Total cost is less than \$12,000 per year.

C-2023-004 Thrive Mind Collaborative (San Luis Obispo, CA) Master Services Agreement for leadership coaching and consulting services for up to 8 staff members for six months, at a cost of \$30,000.

C-2023-005 Langan Engineering and Environmental Services First Amendment to CSA Clarifies that the vendor must be in compliance with any Federal Grants.

C-2023-006 Weideman Group Fourth Amendment to CSA adds \$125,000 to the compensation for the 2023 year and extends the term to 12/32/2023.

C-2023-007 Pacific Gas & Electric Customer Payment Coupon Contract # 50073187 V1 For construction work within EBCE's EV charging installation project in Piedmont. An \$2,500 advance fee was paid for this project, and the actual cost was \$434.50 and the difference has been refunded.

C-2023-008 Bonfire Women (Chicago, IL) Consulting Services Agreement for leadership training and development services through 12/31/2023, compensation not to exceed \$80,000.

C-2023-009 Myst AI Termination Letter terminates all services effective June 30, 2023.

C-2023-010 Keyes and Fox Joint Representation Agreement between EBCE, PCE, MCE, SCP, & City of San Jose before the California Public Utilities Commission ("Commission") in the Self Generation Incentive Program proceeding, Rulemaking 20-05-012. Cost will be split among each CCAs and fees will be billed individually according to each Consulting Services Agreement.



Staff Report Item 9

TO: East Bay Community Energy Board of Directors

FROM: JP Ross

SUBJECT: Approve Fourth Amendment with Frontier Energy to Update Scope, Add to Budget for Support with Energy Efficiency Program Implementation and Additional Regulatory Guidance, and Fleet Electrification Advisory Services, and Extend the CSA term.

DATE: February 15, 2023

Recommendation

Approve a Resolution Authorizing the CEO to execute a Fourth Amendment with Frontier Energy to (1) add additional services to the scope of work for regulatory guidance and program implementation support for the commercial energy efficiency program; (2) add services to the scope necessary to assist with completion of fleet electrification assessments and deployment plans in the medium- and heavy-duty sector including for EBCE's municipal fleets, (3) extend contract through November 2024, and (4) add \$928,301 in compensation (\$178,301 energy efficiency; \$750,000 fleet electrification) for a total amount not to exceed 1,738,249.00.

Background and Discussion

Energy Efficiency: EBCE's 2018 Local Development Business Plan (LDBP) outlines a series of recommendations to advance local investments, including a strategy to develop energy efficiency programs. EBCE's Energy Efficiency ("EE") portfolio is designed to align with the CPUC's EE portfolio rules, while leveraging customer data to ensure targeted and effective marketing and tracking of program impacts. EBCE is committed to EE as an organizational priority, targeting and reducing EBCE's most expensive loads to deliver enhanced customer experiences while maintaining low and stable rates.

In September 2022, the CPUC approved EBCE's AL-28-E-A in Resolution E-5215 to administer a ratepayer funded Commercial Pay-for-Performance Energy Efficiency Program. The program will target EBCE's high usage commercial customers. Commercial customers make up ~10% of all accounts, but account for nearly 50% of the entire load.

Frontier Energy played a significant role in supporting EBCE to secure EE funding for this program. Frontier assisted EBCE in the development of a Tier 3 Advice Letter, which is the official mechanism to request funding under the "elect to administer" approach. Frontier also brought on a subcontractor, kW Engineering, with ample experience in meter-based energy efficiency program approaches and running cost-effectiveness tests required by the CPUC. kW Engineering successfully advised EBCE on energy efficiency measures to provide cost-effective calculations and estimated savings impacts in line with CPUC requirements.

Transportation Electrification: EBCE's 2018 LDBP also prioritized several transportation electrification initiatives throughout the service territory including making investments that enabled the transition to on-road zero-emission medium-and heavy-duty ("MD/HD") vehicles. However, until recently on-road zero-emission MD/HD vehicles and the financial incentives necessary reduce the cost of these vehicles for EBCE's commercial, industrial, and public-sector customers have not been widely available in the market. In turn, EBCE has focused its efforts on the deployment of charging infrastructure to meet the needs of light-duty passenger electric vehicles. This includes, but is not limited to, providing fleet electrification technical assistance to EBCE's JPA members which has resulted in the completion of municipal fleet electrification assessments for nearly all EBCE's local government partners.

Since 2020, Frontier Energy has played a critical role in providing cities and the county with the information needed to begin planning and budgeting for the transition of their light-duty fleet portfolios to EVs. During this timeframe, the California Air Resources Board's ("CARB") has developed a broad strategy to deploy zero-emission MD/HD vehicles everywhere feasible, and original equipment manufacturers (automobile makers) have committed to delivering model options for vehicle use cases that have not previously been market ready.

As part of CARB's overall approach to accelerate a large-scale transition to zero-emission MD/HD vehicles the Advanced Clean Trucks ("ACT") regulation was approved March 2021 to help ensure that zero-emission Class 3-8 vehicles are brought to market. Building off the ACT, and in response to meeting the goals of the [Governor's Executive Order N-79-20](#), in 2022 CARB proposed the [Advanced Clean Fleets](#) ("ACF") regulation. The primary goal of the ACF regulation is to accelerate the market for

zero-emission MD/HD trucks, vans, and buses by requiring fleets that are well suited for electrification, transition to zero-emission vehicles where feasible. This includes ensuring that fleets, businesses, and public entities that own or direct the operation of MD/HD vehicles in California purchase and operate zero-emission vehicles to achieve a smooth transition by 2045 everywhere feasible, specifically to reach:

- 100 percent zero-emission drayage trucks, last mile delivery, and government fleets by 2035
- 100 percent zero-emission refuse trucks and local buses by 2040
- 100 percent zero-emission capable utility fleets by 2040

Under the proposed ACF regulation, local government fleets, including some of EBCE's JPA members, will be required to ensure 50 percent of MD/HD vehicle purchases are zero-emission beginning in 2024 and 100 percent of vehicle purchases are zero-emission by 2027. Some private sector fleets, especially those engaged in the movement of consumer goods, will also need to begin transitioning their trucks and vans to zero-emission MD/HD vehicles in the next 2-3 years.

Today there are ~150 zero-emission MD/HD vehicle models available for order or pre-order by commercial, industrial, and public sector fleets. Many of these are likely capable of meeting the daily needs of most vocational uses. However, there are going to be scenarios where a zero-emission MD/HD vehicle will not meet a fleet's needs and is not available for purchase. In these cases, the proposed ACF regulation includes an exemption.

The biggest existing gap among EBCE's customers is a need for expert technical assistance to plan for meeting current and pending regulatory requirements. Unlike most large fleet operators who already have internal resources for planning, including large transit authorities, EBCE's municipal partners, and small and medium sized commercial business customers operating MD/HD fleets do not have the expertise, staff, or bandwidth to understand:

- Which market ready zero-emission vehicles are able to meet their daily operational needs
- How to finance vehicles and when based on current procurement schedules, and
- What the total cost of ownership will be including maintenance, insurance, taxes, and charging infrastructure.

Completion of fleet electrification assessments will enable this critical planning to begin today and EBCE is well suited to provide this expanded support to its customers operating MD/HD vehicles through the Frontier Energy CSA.

Proposed Amendment with Frontier Energy

Energy Efficiency: To support the launch of the Commercial Energy Efficiency Program, EBCE seeks to amend its existing agreement with Frontier Energy to add additional services to the scope and additional compensation to the budget for energy efficiency related program support services. Frontier will assist EBCE with two main areas: regulatory tracking and reporting and regulatory guidance;

- ***Regulatory tracking and reporting:*** As an elect-to-administer CCA, EBCE is subject to CPUC reporting requirements, including monthly program costs reports, quarterly savings claims reports, and annual reports. The CPUC uses CEDARS (<https://cedars.sound-data.com/>) as the official data and reporting system for EE program funds. Frontier Energy will support EBCE in ensuring that all necessary program data is documented, reviewed, and uploaded in the correct format to comply with CPUC requirements. Frontier Energy will also provide feedback on EBCE's program implementation manual and maintain a progress tracking system to ensure the program is on track to hitting its goals.
- ***Regulatory guidance:*** The Commercial P4P EE Program is EBCE's first EE program administered under the auspices of the CPUC. Because of this, it is important that EBCE stay abreast of regulatory changes that may impact program administration. Frontier Energy attend CPUC reporting meetings on behalf of EBCE and will share with any changes in CPUC reporting protocols that may affect the program or flag new funding opportunities that may benefit the program.

Frontier Energy currently provides similar services to MCE, Lancaster Choice Energy, Clean Power SF, and San Jose Clean Energy. As a trusted partner, with over 30 years of experience working on energy efficiency programs, EBCE hopes to leverage their expertise to ensure the Commercial P4P EE program is compliant and achieves cost-effective savings for customers.

Transportation Electrification: To support the completion of MD/HD fleet electrification assessments, EBCE seeks to amend its existing agreement with Frontier Energy to add additional services to the scope and additional compensation to the budget, which was approved by the Board in 2022, for expanded fleet electrification assessments in the MD/HD sector. Frontier will assist EBCE with the following:

- ***Fleet Advisory Services:*** Each fleet will participate in a vehicle inventory and facility assessment to inform a fleet electrification analysis and transition plan. This includes a total cost of ownership analysis and technical support in applying for funding and/or rebate programs.

- *Outreach and Engagement:* Frontier will work with EBCE to conduct outreach to target fleets and host webinars aimed at directing customers to EBCE's fleet advisory services.

Fiscal Impact

This fourth amendment shall increase the contract amount by \$928,301, for a total NTE of \$1,738,249.00.

Attachment

- A. Resolution Authorizing CEO to Execute Third Amendment with Frontier Energy

RESOLUTION NO. R-2023-XX

A RESOLUTION OF THE BOARD OF DIRECTORS

OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO EXECUTE A FOURTH AMENDMENT TO THE CONSULTING SERVICES AGREEMENT WITH FRONTIER ENERGY, INC.

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

WHEREAS, On July 18, 2018, the Board approved the Local Development Business Plan (“LDBP”) and budget. The LDBP identifies a series of local development early actions, outlines a series of policy principles, and defines a set of metrics to measure the impact on EBCE’s service area;

WHEREAS, in 2019, EBCE entered into a Consulting Services Agreement with Frontier Energy to provide municipal fleet electrification advisory services for light-duty vehicle portfolios;

WHEREAS, in 2020 and 2021 the Board approved Second and Third Amendments to the Consulting Services Agreement with Frontier to 1) accommodate expanded scope of services that enabled additional fleet electrification assessments to be completed on behalf of EBCE’s local government partners, 2) provide energy efficiency professional services, 3) extend the termination date, and 4) update the schedule;

WHEREAS, through these amendments EBCE was able to provide fleet electrification advisory services to all 15 of its local government partners;

WHEREAS, in 2022 the California Air Resources Board proposed the [Advanced Clean Fleets](#) (“ACF”) regulation with the goal accelerating the market for zero-emission medium and heavy-duty (“MD/HD”) trucks, vans, and buses by requiring fleets that are well suited for electrification, transition to zero-emission vehicles where feasible;

WHEREAS, under the proposed ACF regulation, local government fleets, including some of EBCE’s local government partners, will be required to ensure 50 percent of MD/HD vehicle purchases are zero-emission beginning in 2024 and 100 percent of vehicle purchases are zero-emission by 2027, while some of EBCE’s commercial and industrial customers that operate fleets will also need to begin

transitioning their trucks and vans to zero-emission MD/HD vehicles in the next 2-3 years;

WHEREAS, in 2022 EBCE was approved for a \$13 million ratepayer funded commercial energy efficiency program administered under the auspices of the CPUC and subject to CPUC compliance requirements;

WHEREAS, Frontier Energy is qualified to offer regulatory guidance and implementation services for energy efficiency program administration and provides similar services to other CCAs across California;

WHEREAS, EBCE seeks to amend the Agreement with Frontier Energy to add additional services to the scope and to add additional compensation for 1) their energy efficiency program implementation and regulatory expertise services and 2) expansion of their fleet electrification advisory services to meet the needs of targeted customers with MD/HD vehicles.

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

Section 1.

Approve a Resolution Authorizing CEO to execute a Fourth Amendment with Frontier Energy to (1) add additional services to the scope for regulatory guidance and program implementation support for the commercial energy efficiency program; (2) add services to the scope necessary to assist with completion of fleet electrification assessments and deployment plans in the medium- and heavy-duty sector including for EBCE's municipal fleets, (3) extend contract through November 2024, and (4) add \$928,301 in compensation (\$178,301 energy efficiency; \$750,000 fleet electrification) for a total amount not to exceed 1,738,249.00.

ADOPTED AND APPROVED this 15th day of February, 2023.

Jen Cavanaugh, Acting Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



Consent Item 10

TO: East Bay Community Energy Board of Directors

FROM: Jim Dorrance, Power Resources Manager

SUBJECT: RE Scarlet 1, LLC Amendment (Action Item)

DATE: February 15, 2023

Recommendation

Adopt a Resolution authorizing the Chief Executive Officer (CEO) to negotiate and execute an Amendment to an existing Power Purchase Agreement (PPA) with RE Scarlet 1, LLC.

Background and Discussion

East Bay Community Energy (EBCE) executed a Solar and Storage PPA with EDPR CA Solar Park VI, LLC on June 21, 2019, this agreement was assigned to RE Scarlet 1, LLC when the original project named Sonrisa Solar Park was switched to a closely located and similar, alternative project named Scarlet 1 Solar Park (Scarlet). The original project was evaluated during EBCE's CA Renewable Energy Request for Proposals that was launched in June 2018 and the agreement was approved for execution during EBCE's Board of Directors meeting on June 19, 2019. The details of the Scarlet project are below:

20-year delivery term for a 100 mega-watt (MW) solar project paired with a 30 MW/120 MWh lithium-ion battery located in Fresno County. The agreement had the project with an online date in December 2022 and the developer for the project is EDP Renewables (Seller).

There have been some challenges during the development of the project largely resulting from supply chain disruption associated with the COVID-19 pandemic and changes to trade policy. The development of the Scarlet project faced further challenges in finalizing permitting with the representative county and was given an allowable extension under the agreement that extended the online date from

December 2022 to March 2023. Currently, the project is impacted by the Seller's ability to import the needed photo-voltaic (PV) panels that are required to construct the solar generation component of the project. The delays in getting the PV panels to the project site has precipitated a request from the Seller to further extend the online date.

The Seller is asking EBCE to amend the Agreement to allow an extension of the online date from March 2023 to November 2023 to allow adequate time for the PV panels to arrive on site and complete the installation and project construction. Due to the delay and the impact to EBCE customers the Seller is offering Resource Adequacy ("RA") from a new-build facility that is currently under contract by the Seller and would be able to provide grid reliability in the form of RA starting in June 2024. EBCE is currently working with the Seller to negotiate an Amendment to the Agreement that is structured to allow the Scarlet project to be built for EBCE and at the same time provide value back to EBCE customers for the absence of renewable generation and RA caused by the delay.

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

Fiscal Impact

Exact costs are impossible to quantify as there are multiple "if/then" scenarios still in motion. The project's delay beyond the March 2023 online date will increase costs and create a need for EBCE to buy replacement products (Renewable Energy, RA) that would have come from the project for the duration of the delay. However, some of this cost will be mitigated with the additional supplemental RA at a below market rate from the new facility with an online date in June 2024.

Attachments

- A. Resolution Authorizing the CEO to Negotiate and Execute an Amendment to a Power Purchase Agreement with RE Scarlet 1, LLC

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 AN AMENDMENT TO A POWER PURCHASE AGREEMENT
THAT HAS BEEN EXECUTED WITH RE SCARLET 1, LLC**

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

WHEREAS EBCE has executed a Power Purchase Agreement with EDPR CA Solar Park VI LLC, on June 21st, 2019, for a solar and storage project; and

WHEREAS, the Power Purchase Agreement was assigned to RE Scarlet 1, LCC on March 21st, 2022; and

WHEREAS, the project is a 100 MW solar project paired with a 30 MW/120 MWh lithium-ion battery based in Fresno County; and

WHEREAS, the project is expected to be operational by March 30th, 2023, for a term of 20-years; and

WHEREAS, EBCE has negotiated with the Seller to find an equitable path to allow schedule relief in the form of extending the online date to November 1st, 2023.

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

Section 1. The CEO is hereby authorized to negotiate and execute an Amendment to an existing Power Purchase Agreement with RE Scarlet 1, LLC.

ADOPTED AND APPROVED this 15th day of February, 2023.

Jen Cavanaugh, Acting Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



Consent Item 11

TO: East Bay Community Energy Board of Directors

FROM: Annie Henderson, VP Marketing and Account Services

SUBJECT: Consulting Services Agreement for Brand and Visual Identity Services with Landscape Studio LLC

DATE: February 15, 2023

Recommendation

Adopt a Resolution authorizing the CEO to negotiate and execute an Agreement for brand and visual identity services with Landscape Studio LLC for the purpose of accelerating customer engagement for the contract period of one year, with an option to extend one additional year, in the amount not to exceed \$300,000.

Background and Discussion

East Bay Community Energy started service to customers in 2018. As an “opt out” program, the focus of customer communications was education and no call to action. We have since developed many “opt in” programs that require us evolve the way in which we position ourselves, communicate information, and engage with customers. We must revisit our brand position and visual identity in order to accelerate our customer engagement and drive impactful actions around decarbonization.

A Request for Proposals (“RFP”) was issued on December 15, 2022, asking for proposal to support an evolution of the EBCE brand identity. The RFP was distributed to 6-10 agencies that were part of the due diligence when establishing an appropriate scope for the work. Additionally, the RFP was posted to the website and emailed to all users on EBCE’s “Solicitations” email distribution list.

Bidders were given an opportunity to ask questions no later than December 22, 2022. Responses to questions received were posted on December 23, 2022. We received 12 proposals by the deadline of January 17, 2023. Those 12 proposals were reviewed and scored by Annie Henderson, VP of Marketing and Account Services, and Theresa McDermit, Head of Brand. Based on the scores, 6 vendors were asked to interview with a panel of members from the Marketing

and Account Services team. Each interview was one hour and took place the week of January 22, 2023.

As a result of the interviews, Landscape Studio LLC was selected as the top bidder and reference checks were conducted. Staff is refining the details of the scope of work, schedule, and final costs with the intention of putting a Consulting Services Agreement in place with Landscape, based on board approval to negotiate and execute an Agreement.

Fiscal Impact

The contract is budgeted at an amount not to exceed \$300,000 and will be billed based on project milestones.

Attachment

- A. Resolution authorizing the CEO to negotiate, execute, and extend, if desired, an Agreement with Landscape Studio LLC to provide brand and visual identity assistance that will accelerate customer engagement
- B. RFP for Evolution of Brand Identity

RESOLUTION NO. R.xxxxx

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CHIEF
EXECUTIVE OFFICER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH
LANDSCAPE STUDIO LLC TO PROVIDE BRAND AND VISUAL IDENTITY ASSISTANCE
THAT WILL ACCELERATE CUSTOMER ENGAGEMENT**

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, East Bay Community Energy began service to customers in late 2018 and launched its brand and customer communications with a focus on education and retention. Since that time, EBCE has increased awareness amongst customers and launched several programs that ask customers to take action to decarbonize aspects of their lifestyle. EBCE is now at a point where we need to expand our engagement with customers to accelerate the adoption of our program. To do this, we need to revisit our brand position and visual identity,

WHEREAS, a request for proposals for support of the brand identity evolution was posted on December 15, 2022 and asked for responses by January 17, 2023. EBCE staff reviewed proposals, interviewed a selection of respondents based on criteria stated in the RFP, and identified the successful bidder - Landscape Studio LLC, a boutique brand strategy and design studio located in San Francisco - subject to entering into a mutually acceptable Consulting Services Agreement, and

WHEREAS, EBCE is currently refining the scope, schedule, and cost of the Agreement, but wishes to move forward with board approval to authorize the CEO to negotiate, execute, and extend, if desired, an Agreement so as to optimize the overall timeline.

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

Section 1. Authorize CEO to negotiate, execute, and extend, if desired, a Consulting Services Agreement with Landscape Studio LLC to assist with the evolution of the brand and visual identity with a total amount not to exceed \$300,000 for a term of one (1) year, with the right to extend for one (1) additional year. The Agreement must be approved by General Counsel.

ADOPTED AND APPROVED this 15th day of February, 2023.

Jen Cavanaugh, Acting Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



REQUEST FOR PROPOSAL

For

East Bay Community Energy Authority

Brand Identity Evolution

RESPONSE DUE

by

5 pm

on

Jan 17, 2023

For complete information regarding this project, see RFP posted at ebce.org or contact the EBCE representative listed below. Thank you for your interest!

Theresa McDermitt | Head of Brand, EBCE
510.641.0957
tmcdermit@ebce.org

**EAST BAY COMMUNITY ENERGY
REQUEST FOR PROPOSAL
SPECIFICATIONS, TERMS & CONDITIONS
for
East Bay Community Energy Authority:
Brand Identity Evolution**

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STATEMENT OF WORK

1. BACKGROUND

East Bay Community Energy (EBCE) is a non-profit public agency providing Alameda County and the City of Tracy with renewable energy at competitive rates. Since our launch in 2018, both our service area and our ambitions have grown. To better serve this growth, we are evolving our brand expression and seek a partner to support us on this journey.

The two main drivers of our evolution are:

Service Area Expansion

Beginning in 2024, EBCE will serve the City of Stockton. With the inclusion of Stockton, EBCE will serve over 1.9 million customers, an increase in our annual load and number of accounts of 20% and 17% respectively. Best positioning ourselves to serve this large new customer base outside of our traditional “East Bay” geography is one driver of our brand evolution.

Programs Expansion

In addition to provisioning cleaner power for our customers, we now support a variety of programs that drive electrification of new and existing infrastructure to reduce the use of fossil fuels. Many of these programs are aimed at individual consumers. Others target businesses or municipalities. Representative programs include:

- Solar w/back up (Resilient Home)
- Induction cooktop lending program (Clean Cooking)
- Energy efficiency financing (Health-e Home)
- Light-, medium-, and heavy-duty fleet electrification
- Gap funding and technical assistance to cities and school districts installing energy efficient heating systems
- Rebates on portable battery stations for medical baseline customers to ensure continued access to crucial medical equipment during a grid outage

Visit ebce.org for more information about our [residential](#) and [business](#) programs.

Additionally, we are in the early stages of building out an electric vehicle (EV) charging network that will focus on underserved locations, such as multi-family housing units. These chargers are the first EBCE-owned consumer-facing infrastructure and represent a new, physical way that the public will interact with our brand.

2. GOALS

We seek a firm that will partner with us to create a fresh, compelling brand identity that:

- Increases customer engagement
- Positions us as a credible source of information in the clean energy ecosystem
- Is flexible enough to work across multiple applications and appeal to multiple audiences
- Provides room for our continued growth and the evolution of our services

3. SCOPE OF WORK

The high level deliverables for this agreement are:

1. Brand name (naming ideation and testing)*
2. Brand identity system
3. Brand guidelines
4. Updated creative assets (for select applications, see below)
5. Website exploration

Scope detail:

Brand Name

We recognize that our current name may not be ideally suited to drive our ongoing geographic and service expansion. While we are not determined to change our name, we are open to it.

*Because we are unsure if naming will ultimately be a part of this scope, we ask that respondents conceive of and price this aspect of the work (name ideation, testing, etc.) separately.

Brand Identity System

The visual identity system should include (but not necessarily be limited to) the following:

- Logo
- Graphic elements
- Color palette
- Typography and Fonts
- Illustration style
- Photography style
- Voice/tone refinement
- Video style

Brand Guidelines

The visual brand guidelines should include (but not necessarily be limited to) the following:

- Usage guidance, clearspace, and lockups for all logos, wordmarks, campaigns, design elements
- Color palette and usage guidelines
- Typography guidelines, visual hierarchy
- Rationale and examples for illustration and photography styles

Updated Creative Assets

Create functional templates by applying the creative identity to the following core assets:

- Powerpoint
- Google Slides
- Social media posts (Facebook, Instagram, Twitter, LinkedIn)
- Business card
- Press release
- Letterhead

Website Exploration

In scope for this agreement is an exploration / recommendation for how our website can better serve our goals and how the evolved brand identity should come to life on the site. For this phase of work, we request:

- 2 - 3 different UX concepts, each illustrated by representative wireframes

Full website redesign and coding will be addressed in subsequent phases of work and are outside the scope of this project.

4. TERM OF AGREEMENT

The initial term of the Agreement(s) will be for one (1) year, though EBCE anticipates a shorter timeline to completion of this scope. EBCE reserves the right to extend the agreement(s) for one (1) additional year.

5. STATEMENT OF REQUIREMENTS

- 5.1. The successful proposal must demonstrate that the Bidder has the appropriate professional and technical background as well as access to adequate resources to fulfill the stated scope of work.

- 5.2. Bidder must show a record of successful brand strategy and identity development as provided in its description of Qualifications

6. QUALIFICATIONS

6.1. Minimum Qualifications

- Record of successful brand strategy and identity work
- Minimum of 5 years in business

7. CONSULTANT SERVICES

- 7.1. EBCE intends to award one Consulting Services Agreement based upon the highest-ranked score from the technical criteria listed below.

8. PROPOSED CALENDAR OF EVENTS

	Action	Date
1.	Issuance of RFP	December 15, 2022
2.	Deadline for questions/clarifications	December 22, 2022
3.	Question responses posted online	December 23, 2022
4.	Deadline to submit proposals	January 17, 2022
5.	Proposal evaluation complete	January 20, 2022
6.	Interviews with down-selected bidders	January 23 - 27, 2022
7.	Selection and notification of finalist	January 30, 2022
8.	Final negotiations and/or best and final offer	February 7, 2022
9.	Award of Contract by Board of Directors (only if required by Procurement Policy, i.e. contracts >\$100,000 for 1 yr)	February 15, 2022

9. PROCEDURES, TERMS, AND CONDITIONS

GENERAL

Incurring Cost

This RFP does not commit EBCE to award or pay any cost incurred in the submission of the proposal, or in making necessary studies or designs for the preparation thereof, nor procure or contract for services or supplies. Further, no reimbursable cost may be incurred in anticipation of a contract award.

Claims Against EBCE

Neither your organization nor any of your representatives will have any claims whatsoever against EBCE or any of its respective officials, agents, or employees arising out of or relating to this RFP or these RFP procedures, except as set forth in the terms of a definitive agreement between EBCE and your organization.

Guarantee of Proposal

Responses to this RFP, including proposal prices, will be considered firm and irrevocable for one hundred eighty (180) days after the due date for receipt of proposals.

Basis for Proposal

Only information supplied by EBCE in writing by the Contact in connection with this RFP should be used as the basis for the preparation of Consultant(s)'s proposal.

Form of Proposals

Proposals must be submitted electronically by e-mail to tmcdernit@ebce.org.

Amended Proposals

Bidders may submit amended proposals before the Deadline to Submit Proposals. Such amended proposals must be complete replacements for previously submitted proposals and must be clearly identified in a written format. The Contact will not merge, collate, or assemble proposal materials.

Withdrawal of Proposal

Bidders may withdraw their proposals at any time prior to the Deadline to Submit Proposals. The Consultant(s) must submit a written withdrawal request signed by the Consultant(s)'s duly authorized representative addressed to and submitted to the Contact.

Late Responses

To be considered, proposals must be received electronically by email and (optional) in person or via courier/mail or to the place specified by January 17, 2023. No late responses will be considered.

California Public Records Act (CPRA)

All proposals become the property of EBCE, which is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If Consultant(s) proprietary information is contained in documents submitted to EBCE, and Consultant(s) claims that such information falls within one or more CPRA exemptions, Consultant(s) must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the information. In the event of a request for such information, EBCE will make best efforts to provide notice to Consultant(s) prior to such

disclosure. If Consultant(s) contends that any documents are exempt from the California Public Records Act (CPRA) and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief, or other appropriate remedy from a court of law in Alameda County, before EBCE's deadline for responding to the CPRA request. If Consultant(s) fails to obtain such remedy within EBCE's deadline for responding to the CPRA request, EBCE may disclose the requested information.

Consultant(s) further agrees that it shall defend, indemnify, and hold EBCE or its agents, harmless against any claim, action, or litigation (including, but not limited to, all judgments, costs, fees, and attorney's fees) that may result from EBCE's assertion of an exemption or privilege as a basis for withholding any information marked confidential by the Consultant(s).

DO NOT MARK YOUR ENTIRE BID CONFIDENTIAL. ONLY MARK THOSE PAGES THAT YOU BELIEVE CONTAIN PROPRIETARY INFORMATION.

Confidentiality

All data and information obtained from or on behalf of EBCE by the Consultant(s) and its agents in this RFP process, including reports, recommendations, specifications, and data, shall be treated by the Consultant(s) and its agents as confidential. The Consultant(s) and its agents shall not disclose or communicate this information to a third party or use it in advertising, publicity, propaganda, or in another job or jobs, unless written consent is obtained from EBCE.

Generally, each proposal and all documentation, including financial information, submitted by a Consultant(s) to EBCE is confidential until a contract is awarded, when such documents become public record under State and local law, unless exempted under CPRA.

Electronic Mail Address

All communication regarding this procurement will be conducted by electronic mail (e-mail). Potential Bidders agree to provide the Contact with a valid e-mail address to receive this communication.

EBCE Rights

EBCE and its Contact reserve the right to do any of the following at any time:

- a. Reject any or all proposal(s), without indicating any reason for such rejection;
- b. Waive or correct any minor or inadvertent defect, irregularity, or technical error in a proposal or the RFP process, or as part of any subsequent contract negotiation;
- c. Request that Bidders supplement or modify all or certain aspects of their proposals or other documents or materials submitted;
- d. Terminate the RFP, and at its option, issue a new RFP;
- e. Procure any equipment or services specified in this RFP by other means;
- f. Modify the selection process, the specifications or requirements for materials or services, or the contents or format of the proposals;

- g. Extend a deadline specified in this RFP, including deadlines for accepting proposals;
- h. Negotiate with any or none of the Bidders;
- i. Modify in the final agreement any terms and/or conditions described in this RFP;
- j. Terminate failed negotiations with any Consultant(s) without liability, and negotiate with other Consultant(s);
- k. Disqualify any Consultant(s) on the basis of a real or apparent conflict of interest, or evidence of collusion that is disclosed by the proposal or other data available to EBCE;
- l. Eliminate, reject, or disqualify a proposal of any Consultant(s) who is not a responsible Consultant(s) or fails to submit a responsive offer as determined solely by EBCE or its representative; or
- m. Accept all or a portion of a Consultant(s)'s proposal.

Supplier Diversity

Pursuant to California Senate Bill 255, Community Choice Aggregators (CCAs) are required to report to the California Public Utilities Commission on their diverse suppliers, as defined by CPUC General Order 156. Consistent with the California Public Utilities Code and California Public Utilities Commission policy objectives, Bidders that execute a contract with EBCE will be required to complete a Supplier Diversity Questionnaire. EBCE will not consider race, sex, color, ethnicity, or national origin in procurement decisions; providing such information will not impact the selection process or good standing of executed contracts.

EBCE encourages all eligible parties to get certified with the CPUC as a women, minority, disabled veteran and/or LGBT owned business enterprise (WMDVLGBTBE).

For overview information on the CPUC Supplier Diversity Program, please visit the program homepage (<https://www.cpuc.ca.gov/supplierdiversity/>). For information on the certification process and requirements, please visit the Certifications page (<https://www.cpuc.ca.gov/Certifications/>).

EVALUATION CRITERIA

Evaluations will be based upon the information provided in the proposals and such other information requested by Contact or EBCE, or as deemed appropriate by EBCE. Proposals must provide clear, concise information and sufficient detail to enable reviewers/evaluators to evaluate the responsiveness and quality of the proposals to all RFP requirements. Evaluators will also review the proposals for format to ensure conformance with the RFP requirements. Proposals that fail to meet RFP requirements could be rejected. The Contact or EBCE may waive minor irregularities in proposals if doing so would be in the best interest of EBCE. Evaluators may recommend discontinuing evaluation of any proposal that is considered not in compliance with the RFP requirements.

The review/evaluation team will select the proposal that offers the greatest value to EBCE based on an analysis of the following criteria:

	Technical Evaluation Criteria	Points
1.	Description of Approach, Work Plan, and Schedule	30
2.	Relevant Experience and References' Statements	20
3.	Scope of Services Available	15
4.	Price	15
5.	Quality of Portfolio	10
6.	EBCE Special Procurement Preferences <ul style="list-style-type: none"> ● Bidder Location - EBCE Service Area ● Bidder Location - Disadvantaged Community ● Union Labor ● Disabled-enteran Owned Business 	10
	TOTAL	100

In addition to these technical evaluation criteria, EBCE will also consider a set of Special Procurement Preferences, outlined in our Administrative Procurement Policy.

As reflected in the Evaluation Criteria, contract award will not be based solely on cost, but on a combination of factors as determined to be in the best interest of EBCE. EBCE will not be bound to award the contract(s) based solely on the lowest bid submitted.

EBCE's form of a Consulting Services Agreement is attached as **Attachment B** and includes EBCE's current insurance requirements. Please note that these requirements are subject to change by EBCE prior to execution of a contract with a selected Bidder and may require annual updating during the term of a Consulting Services Agreement.

After evaluating the proposals and discussing them further with the Finalists or the tentatively selected Consultant(s), EBCE reserves the right to further negotiate the proposed work and/or method and amount of compensation.

10. INSTRUCTIONS TO BIDDERS

EBCE CONTACT

The evaluation phase of the competitive process will begin upon receipt of bids until a contract has been awarded. Bidders must not have any contact with EBCE personnel nor should they lobby evaluators or any member of the staff or Board of Directors during the evaluation process. Any communications outside of the procedures set forth in this RFP may result in disqualification of the bidder.

All questions regarding these specifications, terms and conditions are to be submitted via e-mail, by 2:00 p.m. PST on Thursday, December 22, 2022 to:

Attn: Theresa McDermit
East Bay Community Energy
E-Mail: tmcdermit@ebce.org

The EBCE website will be the official notification posting place of all Requests for Interest, Proposals, Quotes and Addenda. Go to <http://www.ebce.org/solicitations> to view current opportunities.

SUBMITTAL OF PROPOSALS

All bids must be received electronically by East Bay Community Energy by 5:00 p.m. on January 17, 2023. Bids will be received only at the addresses shown below. Any bid received after that time and date or at a place other than the stated address will not be considered. **Bids must be submitted in a non-alterable format such as a .pdf.**

1. Bidders **must** submit an electronic copy of their proposal via email to the following:
 - a. Theresa McDermit, Head of Brand - EBCE: tmcdermit@ebce.org
2. Bidders are responsible for all of their costs required for the preparation and submission of a bid.
3. Only one bid response will be accepted from any one person, partnership, corporation, or other entity; however, several alternatives may be included in one response. For purposes of this requirement, “partnership” means, and is limited to, a legal partnership formed under one or more of the provisions of the California or other state’s Corporations Code or an equivalent statute.
4. All other information regarding the bid responses will be held as confidential until the Review Committee has completed its evaluation, a recommended award has been made by the EBCE Board of Directors, and the contract has been fully negotiated.
5. California Government Code Section 4552: In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or

under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.

6. Bidder expressly acknowledges that it is aware that if a false claim is knowingly submitted (as the terms “claim” and “knowingly” are defined in the California False Claims Act, Cal. Gov. Code, §12650 et seq.), EBCE will be entitled to civil remedies set forth in the California False Claim Act. It may also be considered fraud and the Consultant(s) may be subject to criminal prosecution.
7. The undersigned Bidder certifies that it is, at the time of bidding, and throughout the period of the contract, licensed by the State of California to do the type of work required under the terms of the Contract Documents. Bidder further certifies that it is regularly engaged in the general class and type of work called for in the Bid Documents.
8. It is understood that EBCE reserves the right to reject this bid and that the bid shall remain open to acceptance and is irrevocable for a period of one-hundred and eighty (180) days, unless otherwise specified in the Bid Documents.

REQUIRED INFORMATION AND PROPOSAL FORMAT

Bid responses are to be straightforward, clear, concise and specific to the information requested. All of the specific documentation listed below is required to be submitted in order for a bid to be deemed complete. Bidders shall submit all documentation in the order listed below and clearly label each section with the appropriate title (i.e. Table of Contents, Executive Summary, Qualifications, Key Personnel, etc.).

Table of Contents: Bid responses shall include a table of contents listing the individual sections of the proposal/quotation and their corresponding page numbers.

Executive Summary: Bid responses shall include a brief company description and relevant services. This summary should not exceed one (1) page.

Qualifications: Description of at least three (3) similar projects including date of services, not to exceed six (6) pages.

Approach: High level work plan that shows how the bidder will meet EBCE’s objectives. Also include any suggestions for additions or modifications to the scope of this proposal that would add value to the project. Not to exceed four (6) pages.

Schedule: Provide a schedule with key milestones or benchmarks along with required levels of EBCE staff time, not to exceed one (1) page.

Key Personnel: Bid responses shall identify the lead contact and include a complete list of all key personnel associated with the proposal RFP, not to exceed one (1) page.

For each person on the list, the following information shall be included:

- The person's job title and years of employment with Bidder;
- The role that the person will play in connection with the RFP;
- Telephone and e-mail address; and,
- Person's relevant experience, certifications, and/or merits.

Cost Estimate: Bidder shall include cost estimates in one of the following manners, not to exceed two (2) pages:

- Bidder fee structure
 - Time and Materials: list hourly rate for each Key Personnel and Not to Exceed amount
 - Flat Fee: Bidder may indicate a fixed, flat fee with progress payments based on key milestones
- Direct and reimbursable expenses, if any

References: Bidders are to provide references for the projects listed under the Qualifications sections. Bidders must verify the contact information for all references provided is current and valid. References must include:

- company name,
- contact person name,
- email, and
- telephone number

Bidders are encouraged to notify all references that responsible EBCE staff may be contacting them to obtain a reference. EBCE staff may contact some or all of the references provided in order to determine Bidder's performance record on work similar to that described in this request. EBCE staff reserves the right to contact references other than those provided in the Response and to use the information gained from them in the evaluation process. Reference list should not exceed one (1) page.

Section	Page Limit
Table of Contents	n/a
Executive Summary	1
Qualifications	6
Approach	6
Schedule	1

Key Personnel	1
Cost Estimate	2
References	1

Attachment A
EBCE Consulting Services Agreement

This attachment is hosted on the RFP webpage and hereby made part of this RFP.



Consent Item 12

TO: East Bay Community Energy Board of Directors

FROM: Jason Bartlett, Finance Manager

SUBJECT: Adopt Travel Reimbursement Policy for Board and Community Advisory Committee (Action Item)

DATE: February 15, 2023

Recommendation

Approve a Resolution adopting a Travel Reimbursement Policy (Policy) for the Board, Executive Committee, Community Advisory Committee (CAC), and any Brown Act Subcommittee to allow members to seek reimbursement for travel-related expenses for public meetings, including parking costs and public transit costs, effective February 15, 2023.

Background and Discussion

East Bay Community Energy Authority (EBCE) has endowed powers outlined in its mutually agreed upon Joint Powers Authority (JPA) charter. One of these powers is the ability of the Board of Directors to establish rules, regulations, policies, bylaws or procedures to govern any advisory commissions, boards and committees, and determine whether the members shall be compensated or entitled to reimbursement for expenses. (EBCE JPA, Section 4.8)

The JPA charter also allows the Board to adopt rules regarding Directors in its Operating Rules and Regulations. (EBCE JPA, Section 4.2.3)

As the Board and other committees resume in-person meetings, the Board seeks to adopt a Travel Reimbursement Policy pursuant to this authority to allow committee and Board members to seek reimbursement for travel-related expenses incurred for meetings that require the member's attendance. The Policy establishes reasonable guidelines for expense reimbursement for members of the Board, Executive Committee, CAC, and any other subcommittees that are subject to the Brown Act.

Proposed Travel Reimbursement Policy

The Travel Reimbursement Policy attached to this Report has been put forth for formal Board review and approval. It provides:

Members of the Board of Directors, Executive Committee, CAC, and any other subcommittee of EBCE subject to the Brown Act, may seek reimbursement for travel expenses directly related to attendance at public meetings.

Expenses directly related to attendance includes parking and public transit costs.

Public transit costs are limited to costs incurred when traveling from the member's residence or workplace located within the EBCE's jurisdiction to the meeting location. (Where a member is traveling from outside of EBCE's jurisdiction, only that portion of the trip within the EBCE's jurisdiction shall be eligible for reimbursement.)

Members will not be able to seek reimbursement for the personal portion of any trip, or automobile expenses such as repairs, traffic citations, insurance, or gasoline.

Members must submit a request for reimbursement within 30 days after incurring the travel-related expense.

The CEO shall designate a point of contact to receive and process the reimbursements.

Fiscal Impact

It is estimated that this cost will not exceed \$20,500 per year. This estimate assumes 100% attendance to all qualifying meeting with \$50 of reimbursable expenses per meeting per attendee. This is a highly conservative estimate based on parking rates and current public transit rates.

Attachments

- A. Resolution of the Board of Directors to Adopt a Travel Reimbursement Policy for Directors and Members of Certain Committees and Subcommittees
- B. Travel Reimbursement Policy

RESOLUTION NO. ____

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY TO ADOPT A TRAVEL REIMBURSEMENT
POLICY FOR DIRECTORS AND MEMBERS OF CERTAIN COMMITTEES AND SUBCOMMITTEES**

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, The Joint Powers Agreement (JPA) permits the Board of Directors to establish governing rules, regulations, policies, bylaws or procedures related to compensation or reimbursements for members of advisory commissions, boards and committees as the Board deems appropriate to assist in carrying out its functions and implementing the CCA Program, other energy programs, and the JPA; and

WHEREAS, The JPA also allows the Board to promulgate rules regarding Directors; and

WHEREAS, The Board recognizes that Board and committee members incur travel-related expenses to attend public meetings, as is required for their positions; and

WHEREAS, The Board finds that reimbursement for travel expenses of Board and other committee members is necessary for proper management and conduct of business of the EBCE; and

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 approves the Travel Reimbursement Policy attached hereto as Exhibit A.

Section 2. This resolution shall become effective immediately upon its adoption.

ADOPTED AND APPROVED this 15th day of February, 2023.

Jen Cavanaugh, Acting Chair

ATTEST:

Adrian Bankhead, Clerk of the Board

TRAVEL REIMBURSEMENT POLICY

Policy Number: 1

February 15, 2023

Consent Item 12

Approved by Resolution:

I. PURPOSE

This document establishes a policy for reimbursement of expenses incurred by members of the East Bay Community Energy Authority (EBCE) Board of Directors, Executive Committee, Community Advisory Committee, and any agency subcommittee subject to the Brown Act (California Government Code §§ 54950 et seq.) while traveling to public meetings for which the member's attendance is required.

II. POLICY

1. Members of the EBCE Board of Directors, Executive Committee, Community Advisory Committee, and any EBCE Subcommittee subject to the Brown Act may seek reimbursement for travel expenses directly related to required attendance at a public meeting.
2. Expenses eligible for reimbursement shall include parking costs and public transit costs.
 - i. Reimbursement for parking and public transit costs shall be limited to those costs incurred when travelling to and from the EBCE meeting location and the member's residence or workplace located within EBCE's service jurisdiction.
 - ii. The personal portion of any trip and non-mileage automobile expenses such as repairs, traffic citations, insurance and gasoline are not eligible for reimbursement.
3. In order to receive reimbursement, members shall submit a Travel Reimbursement Form along with all receipts and any supporting documentation within a reasonable time after incurring the expense, and in any event no later than 30 days thereafter. The Chief Executive Officer of the EBCE shall designate a point of contact within the EBCE to develop, receive, and process the reimbursement forms.



Consent Item 13

TO: East Bay Community Energy Board of Directors
FROM: Howard Chang, Chief Operating Officer & Treasurer
SUBJECT: Treasurer's Report (Informational Item)
DATE: February 15, 2023

Recommendation

Receive report on EBCE's cash position.

Background and Discussion

For quarter ending December 31, 2022, EBCE has maintained a positive cash balance on all EBCE bank accounts. Below is a summary of account balances, cash received, and outstanding loan balances.

Account Balances as of 12/31/2022

Account	Amount
Internal Operating	\$ 5,311,521
Operating Fund	\$ 96,768,954
Lockbox (Includes \$1,000,000 reserve)	\$ 15,337,266
Operating Reserve Fund	\$ 7,050,842
Money Market	\$ 12,716,868
Insured Cash Sweep	\$ 118,946,988
Total	\$ 256,132,439

Cash Received by Month into Lockbox Account

October	2022	\$ 83,002,688
November	2022	\$ 63,909,455
December	2022	\$ 64,316,676
Total		\$211,228,819

Outstanding Loan Balances:

Union Bank Credit Facility: \$0.00

Customer Delinquency:

As of December 31, 2022

31 - 60 Days: \$ 6,070,436

61 - 90 Days: \$ 5,287,411

91 - 120 Days: \$ 4,074,645

120+ Days: \$ 26,732,374

More recent data has not yet been provided by PG&E and billing vendor on the date this report was generated.



CEO Report Item 14

TO: East Bay Community Energy Board of Directors
FROM: Nick Chaset, Chief Executive Officer
SUBJECT: CEO Report (Informational Item)
DATE: February 15, 2023

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

Emma Rivers, Data Analyst

Emma joined EBCE on 1/18/23 as the Data Analyst on the Technology and Analytics team. Emma will collaborate cross-functionally to be a link between our analytics team and the rest of the organization by supporting our analytics and technology stack and the development of internal analyses.

Prior to joining EBCE, Emma worked as a Data Manager at The Nature Conservancy, where she was responsible for a variety of analytical and data-driven projects within the Infrastructure Investments Group. Emma also has several years of previous experience working as a Data Analyst at economic consulting firms.

Emma has a B.A. in Economics and International Relations from Boston University.

Heidy Zohar Ramirez, Local Programs Reporting Analyst

Heidy joined EBCE's Programs team in January 2023. Reporting to the Vice President of Local Development, Electrification and Innovation, Heidy will manage a portfolio of Community Grants for EBCE's Programmatic initiatives, utilizing metrics to track program success and ensuring local economic impacts of services. Working closely with the Data & Analytics team,

Heidy will also support data collection efforts, conduct research, and provide recommendations; critically analyzing and evaluating proposals, programs, budgets, and policies, for development and fulfillment of internal reporting and external reports to CA's regulatory agencies.

Prior to joining EBCE, Heidy worked in philanthropy (grants management) and institutional asset management. Heidy brings a decade of experience in data analytics, business strategy and development, and relationship management.

Heidy has a BS in Business Administration & Innovation from American Jewish University. Heidy lives in Oakland, she is passionate about renewable energy and loves being outdoors, enjoying nature, camping and hiking with her dog, Zuli.

In her free time Heidy consults for organizations investing in leaders of color, quantifying outcomes and effects of restorative healing programs. Heidy enjoys painting, learning piano, making Kombucha, reading (nonfiction self improvement books and science fiction novels), running, and teaching mindfulness practices online (yoga/meditation) in Spanish. Heidy is a founding member of the Dr. Huey P. Newton Foundation, volunteers with ACCE Oakland (People's Tenants Union), and coaches youth locally with Run for a Better Oakland (RBO).



Staff Report Item 16

TO: East Bay Community Energy Board of Directors

FROM: Jason Bartlett, Finance Manager

SUBJECT: Fiscal Year 2022-2023 Mid-Year Budget Report (Informational)

DATE: February 15, 2023

Recommendation

Receive the report informing the Board of the mid-year Budget position for the 2022-2023 fiscal year.

Background and Discussion

This staff report compares EBCE's financial performance for the current fiscal year from July 1, 2022 through December 31, 2022 and updated projections through June 30, 2023, with the approved June budget. Attachment A provides the numerical table summaries and comparisons. The difference for each category shown in dollar amounts and percentages relative to budgeted amounts.

Highlights and assumptions from this comparison are listed here:

- Revenues
 - Electricity sales are 13% above budgeted amounts due to CPUC approving higher than expected rates in the 2023 calendar year
 - Uncollectable amounts are still estimated at 1.5% through the fiscal year
 - Other operating revenue is up due to payments made from counterparty shortfalls
- Energy Costs
 - Cost of Energy is 33% above budgeted amounts due to higher than expected market prices. December and January, in particular, had high market prices due to regional storage shortages
- Operating Overhead
 - Overhead is 17% below budgeted amounts due to less than expected costs with personnel, as not all positions have been filled, and resulting reduced costs in all areas

- Non-Operational Position
 - The 10% decrease in Non-Operating Position is due to adjusted development schedule with the new building rehabilitation
- Net Position
 - Net Position is 26% below budget estimates due to the significant increase in expected energy prices despite rising rates in 2023 calendar year.

Fiscal Impact

This report has no fiscal impact on operations

Attachments

- A. FY 2022-23 Mid-Year Budget Report Table

ITEM 14A: FY 2023-2023 Mid-Year Budget Comparison

	BUDGET	ACTUAL	DELTA	%D
OPERATIONS				
REVENUE & OTHER SOURCES				
Operating Revenue				
Electricity Sales	792,009,000	893,106,000	101,097,000	12.8%
Uncollectables	(15,840,000)	(15,555,000)	285,000	-1.8%
Other Operations Revenue	(6,229,000)	12,346,000	18,575,000	-298.2%
Total Operating Revenue	769,940,000	889,897,000	119,957,000	15.6%
EXPENSES & OTHER USES				
Energy Operating Expenses				
Cost of Energy	523,995,000	699,181,000	175,186,000	33.4%
Data Management/CRM	7,834,000	7,852,000	18,000	0.2%
Billing & Metering	2,715,000	2,712,000	(3,000)	-0.1%
Scheduling	696,000	703,000	7,000	1.0%
Total Energy Operating Expenses	535,240,000	710,448,000	175,208,000	32.7%
Overhead Operating Expenses				
Personnel	15,711,000	13,480,000	(2,231,000)	-14.2%
Marketing & Communications	2,874,000	2,070,000	(804,000)	-28.0%
Legal, Policy, & Regulatory Affairs	2,486,000	1,829,000	(657,000)	-26.4%
Other Professional Services	2,293,000	1,811,000	(482,000)	-21.0%
General & Administrative	3,882,000	3,412,000	(470,000)	-12.1%
Depreciation	180,000	192,000	12,000	6.7%
Total Overhead Operating Expenses	27,426,000	22,794,000	(4,632,000)	-16.9%
Total Operating Expenses	562,666,000	733,242,000	170,576,000	30.3%
NON-OPERATIONS				
NON-OPERATING REVENUE				
Interest Income	261,000	921,000	660,000	252.9%
Grants	0	772,000	772,000	0.0%
Other Non-Operating Revenue	15,000	134,000	119,000	793.3%
Total Non-Operating Revenue	276,000	1,827,000	1,551,000	562.0%
NON-OPERATING EXPENSES				
Borrowing Interest	1,440,000	1,079,000	(361,000)	-25.1%
Local Development Funding	22,550,000	22,550,000	0	0.0%
Capital Expenditures	7,000,000	4,105,000	(2,895,000)	-41.4%
Total Non-Operating Expenses	30,990,000	27,734,000	(3,256,000)	-10.5%
NET NON-OPERATING POSITION	(30,714,000)	(25,907,000)	4,807,000	-15.7%
TOTAL REVENUES	770,216,000	891,724,000	121,508,000	15.8%
TOTAL EXPENSES	593,656,000	760,976,000	167,320,000	28.2%
NET INCREASE(DECREASE) IN POSITION	176,560,000	130,748,000	(45,812,000)	-25.9%



Staff Report Item 17

TO: East Bay Community Energy Board of Directors

FROM: Nick Chaset, CEO
Inder Khalsa, General Counsel

SUBJECT: Discussion of In-Person and Teleconference Board Meetings Options After the End of the State of California COVID-19 State of Emergency, and Adopt Post-COVID Emergency Attendance Policy for East Bay Community Energy Board and Brown Act Committees (Action Item)

DATE: February 15, 2023

Recommendation

Provide direction to staff and adopt a Resolution approving a POST-COVID Emergency Attendance Policy (Policy) for the Board and East Bay Community Energy Brown Act committees to provide a policy with respect to conducting public meetings after the end of the State of California's COVID-19 State of Emergency, which is expected to occur on February 28, 2023. This policy will provide direction to staff regarding Board preferences for conducting meetings going forward.

Background

On October 17, 2022, Governor Newsom announced that the State of California's COVID-19 State of Emergency will end on February 28, 2023. On January 31, 2023, the Governor announced a confirmation of the State's intent to end this State of Emergency at the end of February. With the end of the State of Emergency, the Board of Directors (as well as its Brown Act committees, including the Community Advisory Committee) will no longer be able to rely on Senate Bill 361 to conduct fully remote public meetings.

The Ralph M. Brown Act requires that all meetings of a local agency legislative body be open and public and that members of the public be permitted to attend and participate. The Brown Act has long allowed for meetings to occur via teleconferencing, subject to certain requirements: the agenda must identify the teleconference location of each legislative body member that will be participating in the meeting; each teleconference location must be

accessible to the public; members of the public must be allowed to address the legislative body at each teleconference location; the meeting agenda must be posted at each teleconference location; and at least a quorum of the legislative body must participate from locations within the boundaries of the agency's jurisdiction. For the purposes of this staff report and policy, we refer to these rules as the "Traditional Brown Act" teleconferencing regulations.

With COVID-19 stay at home mandates and social distancing recommendations, it was not feasible to comply with the Brown Act's teleconferencing requirements, especially the posting of each remote location on the agenda and the requirement that remote locations be open and accessible to the public. In March 2020, Governor Newsom issued Executive Order No. N-29-20 which suspended certain Brown Act requirements, including these, during 2020. AB 361, adopted as urgency legislation in 2021 and effective until January 1, 2024, superseded the Governor's Executive Order and amended the Brown Act to relax teleconferencing requirements during Governor-proclaimed emergencies.

Under AB 361, the relaxed teleconferencing requirements apply when the state has declared a "state of emergency" and either of the following: (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the local agency legislative body determines that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees. Under AB 361's relaxed teleconferencing provisions, a legislative body may meet via teleconference without a quorum of members physically present, without having to post agendas at all teleconference locations, without identifying each teleconference location, and without making each teleconference location accessible to the public. To utilize these provisions, a legislative body is required to make periodic findings every 30 days. EBCE has relied on AB 361 to conduct meetings remotely since the legislation was adopted.

Analysis & Discussion

Assuming the Governor acts on his stated intention to end the State of Emergency related to COVID-19 on February 28, 2023, agencies will no longer be able to meet remotely pursuant to AB 361, because this statute is only operative during a Governor-proclaimed emergency. Although agencies like EBCE have found that remote public meetings can be held conveniently, transparently, and with robust public participation via online platforms like Zoom, it is important to note that, absent a Governor-proclaimed emergency or future changes legislative changes, the law does not allow legislative body members to participate remotely in public meetings from home solely for convenience and without substantial additional noticing and transparency requirements. The end of the COVID-19 State of Emergency will substantially change the landscape of remote public meetings in California. This change will impact *all Brown Act bodies*, not only the Boards of agencies. In EBCE's case, that includes the Community Advisory Committee, the Executive Committee, the Marketing, Regulatory, and Legislative Subcommittee, and the Financial, Administrative, and Procurement Subcommittee.

Therefore, staff is looking for direction from the Board on how they would like to proceed with EBCE Board meetings and Brown Act committee meetings in the coming year. Staff has drafted a proposed policy for Board meetings and Brown Act committee meetings. As stated in the proposed policy, for Brown Act committees (including the Community Advisory Committee), the Board may wish to allow such committees to establish their own protocols for attendance at their meetings, provided they are in compliance with the Brown Act.

Options for Brown Act Meetings After February 28, 2023

1. In Person

Hopefully it goes without saying that one option for the Board would be for the EBCE Board to meet entirely in person in one location, as most bodies did prior to the COVID-19 emergency. The location of meetings could be the same for every regular meeting or it could rotate from one location to another if feasible. Regular times and locations are generally set by a resolution of the Board. This option is straightforward, but given EBCE's large geographical jurisdiction, would require legislative body members to drive to meetings to attend in person, and inevitably some members may have to drive long distances. It would also preclude members from participating remotely when they are feeling unwell, have recently been exposed to an illness, or are caring for a family member. For this reason, the Board may determine that it would be desirable for legislative body members to have some ability to participate in meetings remotely.

2. Traditional Brown Act Teleconferencing Rules

Another option would be to rely on what we refer to here as the "traditional" Brown Act teleconferencing requirements. As noted above, the Brown Act has long allowed legislative bodies to meet remotely, whether online through a platform like Zoom or Microsoft Teams or by teleconference, as long as each remote location is identified on the agenda, noticed and made open to the public to participate, and a quorum of the legislative body participates from within the agency's geographical jurisdiction (note that a quorum is *not* required to be in one physical location under the traditional Brown Act rules). Before COVID-19, a number of agencies with large jurisdictions regularly held meetings by teleconference, with legislative body members participating by phone from multiple different locations in the entity's jurisdiction, following these rules. This option remains available to EBCE, and would allow legislative body members to participate from a number of publicly accessible and noticed locations throughout EBCE's geographical jurisdiction. This option would not require that a quorum of the Board participate from one location as long as a quorum was somewhere in EBCE's geographical location. However, it does require the posting of notice at the remote locations, publication of each remote location on the agenda (posted 72 in advance of the meeting), and the public would have to be allowed to participate from the remote location(s).

Under the traditional Brown Act rules, the Board could establish multiple meeting locations throughout its jurisdiction, perhaps at County or City offices, which can easily be posted and made available to the public. This approach would shorten driving times for members of the

Board, but it would *not* be a good solution for members who would like to participate in meetings from home, perhaps because they are unwell. The need to list remote locations on the public agenda 72 hours in advance of the meeting, post notices at those locations, and make them accessible to the public makes private residences inconvenient/infeasible for use as remote locations under these rules.

3. AB 2449

Finally, the California Legislature adopted Assembly Bill 2449 in 2022 to provide local agency legislative bodies with an alternative teleconferencing option starting January 1, 2023. This new legislation does not supersede the traditional Brown Act teleconferencing rules (or even AB 361) but provides an additional option which does allow legislative body members to participate in meetings from home in limited circumstances. But while AB 2449 shares some similarities with AB 361, important differences mean that an agency relying on AB 2449 will be required to have a singular physical meeting space where at least a quorum of the body attends in person. It also strictly limits the circumstances and frequency of remote participation.

Like AB 361, AB 2449 exempts local agencies from certain traditional Brown Act teleconferencing requirements like posting agendas at all teleconference locations, identifying all teleconference locations in the meeting agendas, or making each teleconference location open to the public. Also like AB 361, local agencies relying on teleconferencing under AB 2449 must follow certain requirements for noticing and conducting remote meetings. Meeting notices and agendas must identify the means by which members of the public may access the meeting and offer public comment. Meeting agendas must identify and include an opportunity for all persons to attend and address the legislative body directly via a call-in option, via an internet-based service option, and at the in-person location of the meeting. In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body may take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. The legislative body may not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

Unlike teleconferencing under the traditional Brown Act requirements or AB 361, AB 2449 requires *at least a quorum of the legislative body to participate in person from a singular physical location* clearly identified on the agenda, open to the public, and situated within the boundaries of the territory over which the agency exercises jurisdiction. This location would presumably be the body's regular meeting location (which, again, could be the same each meeting or rotate according to a Board adopted resolution). Further, Members of the legislative body participating remotely pursuant to AB 2449 must publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's

relationship with any such individuals. Members must also participate through both audio and visual technology so that the public can remotely hear and visually observe them. To do this, AB 2449 requires either a two-way audiovisual platform or a two-way telephonic service with a live webcasting of the meeting.

Further, AB 2449 limits how frequently and under what circumstances remote participation is allowed. AB 2449 only allows for remote participation by legislative body members in two specified circumstances: (1) "just cause" or (2) "emergency circumstances."

- **Just Cause:** "Just cause" means any of the following: (A) a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely; (B) a contagious illness that prevents a member from attending in person; (C) a need related to a physical or mental disability not otherwise accommodated by the agency's procedures for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the Americans with Disabilities Act; or (D) travel while on official business of the legislative body or another state or local agency. To participate remotely for just cause, a member must notify the legislative body "at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause." This notification must include a general description of the circumstances relating to their need to appear remotely at the given meeting.
- **Emergency Circumstances:** "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending a meeting in person. To participate remotely due to emergency circumstances, the member must request the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body must take action to approve the request. If the legislative body does not approve the request, the member may not participate via teleconference under AB 2449 at that meeting. The legislative body must request a general description of the circumstances relating to the member's need to appear remotely at the given meeting. A general description need not exceed 20 words and does not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law.

A legislative body member is required request to participate remotely at a meeting due to emergency circumstances as soon as possible, and a separate request is required for each meeting in which they seek to participate remotely. The legislative body may approve such a request by a majority vote. If the request is received at least 72 hours before a regular meeting, the legislative body's action on the request should be included on the agenda. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting, the legislative body may take action at the beginning of the meeting.

Finally, for “just cause,” legislative members are *only allowed up participate remotely up to two meetings per calendar year*. Otherwise, even in emergency circumstances, legislative members may not participate solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the legislative body within a calendar year (for a body that meets once a month, this would be 2 meetings a year).

In sum, AB 2449 does provide an option for members of a legislative body to participate in public meetings from home, but only infrequently and after complying with numerous procedural requirements.

Recommendation for Board and Brown Act Committee Meetings

With the end of the State of Emergency, the Board and Brown Act committees will no longer be able to rely on AB 361 to conduct fully remote public meetings. For Board meetings, staff recommends that the Board utilize traditional Brown Act teleconferencing rules if the Board would like to use multiple locations throughout its jurisdiction. This approach would allow Board members to utilize their City or County offices to attend meetings remotely, eliminating the requirement that a quorum be present in a singular physical location in order to comply with the Brown Act. Under the traditional Brown Act rules, a quorum needs to be in the agency’s jurisdiction but does not need to be in one physical location. Finally, staff anticipates that confirming compliance with the law will be simpler under the traditional Brown Act rules, which is important to ensure the validity of Board actions.

For EBCE’s Brown Act committees, such as the Community Advisory Committee, Executive Committee, and Board subcommittees, staff is recommending that these bodies be allowed to adopt their own policies with respect to Brown Act compliance. Under traditional Brown Act rules, a Brown Act committee could participate from multiple meeting locations throughout its jurisdiction, perhaps in the city hall or other public facility of the member city in which the committee member resides, as long as the remote locations are listed on the agenda, open to the public, and noticed appropriately. With respect to the Community Advisory Committee, staff recommends that if a CAC member would like to participate from a public meeting space in their city of residence, the Board member representative from that city may be a point of contact with their city staff to arrange for publicly accessible meeting space.

Alternately, a Brown Act committee may opt to utilize AB 2449. In that case, at least a quorum of the committee must participate in person from a singular physical location. If a committee member is unable to attend a meeting in person due to a reason that constitutes “just cause” or an “emergency circumstance,” they may participate remotely provided they comply with the requirements of AB 2449, discussed above. If a Committee is willing to meet in person for most meetings and limit remote appearances to an as-needed basis, staff would be willing to support this option for the Brown Act committees, which are primarily advisory in nature and usually considerably smaller than the Board.

Staff recommends that the Board direct each Brown Act committee to adopt their own meeting attendance policy in compliance with the Brown Act, to establish clear expectations for their members.

Fiscal Impact

None foreseeable at this time. Depending on the direction of the Board, minor fiscal impacts could be associated with reservation of in-person facilities and staff administrative costs.

Attachments

- A. Resolution of the Board of Directors to Adopt a POST-COVID Emergency Attendance Policy for the East Bay Community Energy Board and Brown Act Committees
- B. POST-COVID Emergency Attendance Policy for the East Bay Community Energy Board and Brown Act Committees

RESOLUTION NO. ____

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF EAST BAY COMMUNITY ENERGY AUTHORITY (EBCE) TO ADOPT A POST-COVID
EMERGENCY POLICY FOR THE BOARD AND EBCE BROWN ACT COMMITTEES**

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, The Joint Powers Agreement (JPA) permits the Board of Directors to establish governing rules, regulations, policies, bylaws or procedures as the Board deems appropriate to assist in carrying out its functions and implementing the CCA Program, other energy programs, and the JPA; and

WHEREAS, The JPA also allows the Board to promulgate rules regarding Directors; and

WHEREAS, The Board recognizes that Governor Newsom has announced that the State of California’s COVID-19 State of Emergency will end on February 28, 2023; and

WHEREAS, The Board recognizes that with the end of the State of Emergency, the Board as well as its Brown Act committees, will no longer be able to rely on Senate Bill 361 to conduct fully remote public meetings; and

WHEREAS, The Board would like to adopt a policy regarding the conduct of EBCE Board and Brown Act committee meetings following the termination of the COVID-19 State of Emergency; and

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 adopts the POST-COVID Emergency Attendance Policy for the EBCE Board and Brown Act committees, attached hereto as Exhibit A.

ADOPTED AND APPROVED this 15th day of February, 2023.

Jen Cavanaugh, Acting Chair

ATTEST:

Adrian Bankhead, Clerk of the Board

POST-COVID EMERGENCY ATTENDANCE POLICY FOR THE EAST BAY
COMMUNITY ENERGY BOARD AND BROWN ACT COMMITTEES

Policy Number: 1

February 15, 2023

Agenda Item 17

Approved by Resolution:

I. PURPOSE

This document establishes a policy for attendance at meetings of the East Bay Community Energy (EBCE) Board and Brown Act Committees following the termination of the COVID-19 State of Emergency.

II. POLICY

1. For East Bay Community Energy (EBCE) Board meetings following the termination of the COVID-19 State of Emergency, the Board shall return to in-person meetings or in the alternative, utilize traditional Brown Act rules to the extent Board Members would like to participate from remote, publicly accessible locations throughout its jurisdiction.
2. EBCE Brown Act committees, including but not limited to the Executive Committee and the Community Advisory Committee, shall operate in compliance with the Brown Act. In compliance with the Brown Act, each committee may adopt their own policies for meeting attendance. Committees may meet under the traditional Brown Act rules (either entirely in person or by teleconference/remote) or allow for participation in compliance with AB 2449 on a limited as-needed basis when the members of the committee are willing to meet in a singular physical location.



Staff Report Item 18

TO: East Bay Community Energy Board of Directors

FROM: Marie Fontenot, Vice President of Power Resources

SUBJECT: ConEd Alpaugh BESS, Longroad Sun Pond Contract Approvals (Action)

DATE: February 15, 2023

Recommendation

Adopt two Resolutions authorizing the Chief Executive Officer to execute Agreements for two projects: Sun Pond developed by Longroad Energy (awarded short listing through the 2022 Long-Term Resources request for offers (RFO)) and Alpaugh BESS, LLC developed by ConEd (originated bilaterally). The project operational dates are listed below:

- a. Sun Pond: 20-year, 42.5 MW solar project paired with a 42.5 MW/85 MWh battery storage facility in Maricopa County, Arizona. April 2025 online date. Developed by Longroad Energy.
- b. Alpaugh BESS: 12-year, 5 MW Resource Adequacy (RA) from battery storage project in Tulare County. June 2024 online date. Developed by Consolidated Edison Development or ConEd.

Background and Discussion

The 2022 Long-Term Resource Request for Offers (RFO) is EBCE's third long-term contract solicitation. 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 2023.¹ 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”.²

The Longroad Energy contract is for half of the output from the Sun Pond project, providing renewable energy, RA, renewable energy credits, and ancillary services. The full Sun Pond project is an 85 MW solar project paired with an 85 MW/170 MWh Lithium-Ion battery located in Maricopa County, Arizona. The contract has a 20-year delivery term with a planned commercial operation date of April 1, 2025. Longroad Energy is an experienced developer with a focus on the development and operation of utility-scale wind, solar, and battery storage energy projects across the United States. It has successfully brought online 1.9 GW of solar projects online since 2019. The contracting entity is Sun Pond, LLC.

The Alpaugh BESS project was offered to EBCE bilaterally, concurrent to ongoing negotiations underway in EBCE’s 2022 Long-Term Resource RFO and was evaluated against offers submitted to the RFO.

The Alpaugh BESS contract is for RA from half of a 10 MW/40 MWh battery storage project. The contracted project is located in Tulare County. The contract is for 10 years with an expected commercial operation date of June 1, 2024. ConEd is an experienced developer having 1.5 GW solar and 150 MW storage projects in operation in California with an additional 2.5 GW in development in California. The contracting entity is Alpaugh BESS, LLC.

Attachments

- A. Resolution Authorizing the CEO to Negotiate and Execute a Twenty-Year Renewable Energy and Battery Storage Agreement with Sun Pond, LLC
- B. Resolution Authorizing the CEO to Negotiate and Execute a Twelve-Year Resource Adequacy Agreement with Alpaugh BESS, LLC
- C. PowerPoint Presentation

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

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

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 POND,
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 Pond, LLC proposed 42.5 MW of renewable energy, environmental attributes, Ancillary Services (AS) and Resource Adequacy (RA) from an 85 MW/170 MWh solar photovoltaic project and battery energy storage facility in Maricopa County, AZ developed by Longroad Development Company, LLC;

WHEREAS, the project is expected to be operational by April 1, 2025 and will deliver renewable energy, environmental attributes, AS, and RA for a term of twenty 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 twenty-year agreement with Sun Pond, LLC for a 42.5 MW solar and battery energy storage project in Maricopa County, AZ. The final agreement shall include the key terms outlined in the staff report associated with this Resolution.

ADOPTED AND APPROVED this 15th day of February, 2023.

Jen Cavanaugh, Acting Chair

ATTEST:

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 ALPAUGH
BESS, 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, Alpaugh BESS, LLC proposed 5 MW of Resource Adequacy (RA) from a 10 MW/40 MWh battery energy storage project in Tulare County, developed by Consolidated Edison Development, LLC;

WHEREAS, the project is expected to be operational by June 1, 2024 and will deliver RA for a term of twelve 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 twelve-year RA agreement with Alpaugh BESS, LLC for a 5 MW RA-only solar and battery energy storage project in Tulare County. The final agreement shall include the key terms outlined in the staff report associated with this Resolution.

ADOPTED AND APPROVED this 15th day of February, 2023.

Jen Cavanaugh, Acting Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



2022 Long-Term Resource RFO: Project Update

PRESENTED BY: Marie Fontenot

DATE: February 15, 2023

Agenda

Attachment Staff Report Item 18C

- 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 18C

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 two contracts: one Power Purchase Agreement with Energy Storage (PPA, submitted into EBCE and SJCE's Joint 2022 Long-Term Resource RFO), and one RA-only Agreement

- Sun Pond: 20-year, 42.5 MW solar and battery storage project in Maricopa County, Arizona. Expected to be operational April 2025. Developed by Longroad Energy.
- Alpaugh BESS: 12-year, 5 MW RA-only from battery storage project in Tulare County. Expected to be operational June 2024. Developed by ConEd.

Longroad – Sun Pond Project

Attachment Staff Report

Details

- Project Offered to EBCE/SJCE 2022 Long-Term Resource RFO
- Contract for half of all renewable energy, environmental attributes, Resource Adequacy, battery tolling rights, and ancillary services from solar project and battery storage facility in Maricopa County, AZ
- Total project size is 85MW solar + 85 MW/170 MWh energy storage
- 20-year contract
- Expected Commercial Operation Date is April 1, 2025
- The contracting entity under Longroad Energy is Sun Pond, LLC.

Longroad Company Overview

- Longroad is led by former executives of First Wind Energy.
- Longroad was founded in 2016 and focuses primarily on the development and operation of utility-scale wind, solar, and battery energy storage projects throughout the United States.
- Since 2019, Longroad has brought eleven major projects to COD, including 1.9 GW of solar 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 some experience with CCAs; owns and operates at least 1 executed contract with CCAs:
 - PPA with MCE that achieved COD in 2020

Details

- Originated and negotiated bilaterally
- Contract for 5 MW Resource Adequacy from energy storage project in Tulare County
- Total project size is 10 MW
- 12-year contract
- Expected Commercial Operation Date is June 1, 2024
- Project has an executed interconnection agreement and site control.
- Committed toward utilizing local and union labor and paying prevailing wages.
- The contracting entity under ConEd is Alpaugh BESS, LLC

ConEd Company Overview

- Consolidated Edison Development (ConEd) was founded in 1996 and has been focused on renewable development since 2008.
- ConEd is the second largest owner of solar capacity in North America and has delivered more than 1.5 GW of solar and storage projects in California or that interconnect into a California balancing authority.
- ConEd has over 150 MW of battery storage projects in operation, over 140 MW in construction, and over 2.5 GW in the development pipeline either in California or that interconnect into a California balancing authority.
- ConEd CCA experience
 - PPA with MCE; COD achieved 2018

Portfolio Characteristics

Attachment Staff Report Item 18C

	Developer	Project	Location	Product	Offtake	COD	Nameplate	Sept NQC
Gener-ation	Longroad	Sun Pond	Maricopa County, AZ	PV and ESA	EBCE	4/1/2025	85 MW	34.4
Stor-age	NextEra Energy	Kola Energy Storage	San Joaquin County (Tracy), CA	ESA	EBCE	6/1/2025	125 MW	116.75
RA Only	ConEd	Alpaugh BESS	Tulare County, CA	RA only	EBCE	6/1/2024	5 MW	4.5
	Vitol	Ocotillo Solar	San Diego County, CA	RA only	EBCE	8/1/2023	50 MW	50
	Broad Reach Power	Noosa Energy Storage	San Joaquin County, CA	RA only	EBCE & SJCE	6/1/2024	30 MW	27
	Broad Reach Power	Cascade Energy Storage	San Joaquin County, CA	RA only	EBCE & SJCE	6/1/2024	5 MW	4.5

Next Steps

- Finalize the two contracts and execute agreements.
- 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 June 1, 2023.

Appendix

Portfolio Summary

Attachment Staff Report Item 18C

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