



Community Advisory Committee Meeting
Monday, February 13, 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/84794506189>

Or join by phone:

Dial (for higher quality, dial a number based on your current location):
US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 929 205
6099 or +1 301 715 8592 or +1 312 626 6799 or 877 853 5257 (Toll Free)
Webinar ID: 847 9450 6189

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 Committee, please email it to the clerk by 5:00 pm the day prior to the meeting.

C1. Welcome & Roll Call

C2. Public Comment

This item is reserved for persons wishing to address the Committee 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 Committee are customarily limited to three minutes per speaker

and must complete an electronic [speaker slip](#). The Committee Chair may increase or decrease the time allotted to each speaker.

C3. Approval of Minutes from January 17, 2023

C4. CAC Chair Report

C5. 2023 Community Grants (CAC Informational Item)

Staff will provide an update about the Community Grants program.

C6. Mid-Year Budget FY2022/23 (CAC Informational Item)

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

C7. Long-Term Contracts for Approval (CAC Action Item)

2022 RFO Long Term Contracts for Approval

C8. 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 (CAC 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.

C9. Travel Reimbursement Policy (CAC Action Item)

Adopt Travel Reimbursement Policy for Board and Community Advisory Committee

C10. CAC Member and Staff Announcements including requests to place items on future CAC agendas

C11. Adjournment to Monday, March 13, 2023



Draft Minutes

Community Advisory Committee Meeting

Tuesday, January 17, 2023

6:00pm

In person:

The Lake Merritt Room
Cal State East Bay - the Oakland Center
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1000 Broadway, Suite 109
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If you have anything that you wish to be distributed to the Committee, please email it to the clerk by 5:00 pm the day prior to the meeting.

C1. Welcome & Roll Call

Present: Members: Landry, Hu, Liu, Swaminathan, Lakshman, Souza, Kaur, Lutz, Vice Chair Hernandez, and Chair Eldred

Excused: Members Talreja and Pacheco

Alternate Harman Kaur served as the Member for San Joaquin County.

C2. Public Comment

This item is reserved for persons wishing to address the Committee 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 Committee are customarily limited to three minutes per speaker and must complete an electronic speaker slip. The Committee Chair may increase or decrease the time allotted to each speaker.

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

Edward F. Dijeau spoke regarding the advent of NEM 3.0 policies, stating that EBCE should cost the value of the exported output of rooftop solar at the actual cost of electricity as billed for those customers with rooftop solar after April 14, 2023.

Tom Kelly stated the EBCE has failed to reduce its carbon emissions over the past several years, and that he hears excuses from EBCE staff about why this is the case.

Anne Olivia Eldred requested to set up a meeting with Tom Kelly to follow up about questions that staff have not addressed.

C3. Approval of Minutes from December 12, 2023

Member Lutz motioned to approve the minutes. Vice Chair Hernandez seconded the motion, which passed 10/0. Excused: Members Talreja and Pacheco.

C4. CAC Chair Report

Vice Chair Ed Hernandez:

Vice Chair Hernandez spoke about three consent items that are on the January 18, 2023 Board of Directors meeting agenda:

- Consent Item 7: Update to EBCE's Conflict of Interest Code
- Consent Item 8: Authorization of CEO Expenditure to Mercer
- Consent Item 10: Agreement with Google LLC

1. Consent Item 7: Update to EBCE's Conflict of Interest Code

Vice Chair Hernandez stated that the EBCE's amended Conflict of Interest code removes Agency Clerk and HR Manager from the list of positions that are required to file statements of economic interest (Form 700).

2. **Consent Item 8: Authorization of CEO Expenditure to Mercer**
Vice Chair Hernandez stated that approval is sought to delegate authority to the CEO to spend up to \$130,000 for Mercer to conduct compensation and benefit studies across EBCE roles. Vice Chair Hernandez stated that he thought that the fees to conduct the study are expensive, but that EBCE compensation should be in-line with the market.

3. **Consent Item 10: Agreement with Google LLC**
Vice Chair Hernandez stated that approval is sought to negotiate an Agreement with Google for a term of 3 years, in order to benefit from a 5% discount on standard pricing from Google for EBCE's use of the Google Cloud Platform, in exchange for a commitment to spend \$450,000 over 3 years. Vice Chair Hernandez stated that the agreement is expected to save EBCE a minimum of \$22,500 over those 3 years and that this agreement is a "pay as you use" contract that does not have a contractual not-to-exceed amount.

Chair Eldred:

Chair Eldred stated that at the December 14, 2022 Board of Directors meeting, an agreement was approved for EBCE to use the Google Cloud Platform. Chair Eldred also congratulated staff for receiving a National Notable Achievement award from the Environmental Protection Agency for EBCE's first-of-its-kind in the US work to evaluate Brownfield revitalization for the use case of EV fast charging hubs/centers.

Chair Eldred stated that there would be a Board member reception on January 18, 2023 at 5pm at the Oakland Center, and she encouraged CAC members to attend.

Chair Eldred stated that the new EBCE Board Chair, Dan Arriola plans to attend the February 10, 2023 CAC meeting. Ahead of this meeting, Chair Eldred requested that members email her a brief self-introduction, including the member's areas of expertise, the constituent groups they represent, and their focus and priorities. Chair Eldred also encouraged CAC members to reach out to Board members, or for CAC members to contact her to make an introduction.

Cynthia Landry requested a Form 700 training session for CAC members.

C5. 2022 RFO Long-Term Contracts for Approval (CAC 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 Committee discussed:

- Given that the Inflation Reduction Act provides tax credits for not-for-profit organizations, if there is any inclination for EBCE to develop projects on its own, as opposed to through the private sector
- The percentage of RA that is met by the 2022 RFO Long-Term contracts
- How EBCE values local resources versus resources that are created far away, given that economics is not the only factor that is taken into consideration
- How EBCE evaluates local development projects
- Whether the Kola Energy Storage project requires premiums to be paid, or if it is competitive with the market
- If the resources that are dedicated to Demand Response also fulfill RA requirements

Tom Kelly stated that EBCE occasionally sources its renewables from out of state, and that this energy does not reach California's electrical grid. Tom Kelly continued that EBCE has an obligation to procure local energy sources. He requested that the CAC find out if there are any obstacles in the RFP application process that might discourage energy providers from applying with EBCE.

Vice Chair Hernandez left the meeting at 7:00pm.

Member Swaminathan motioned to approve the staff recommendation. The motion was seconded by Member Souza, which passed 8/0.

Abstain: Member Hu

Excused: Members Talreja, Pachecho and Hernandez.

C6. Authorizing CEO to Negotiate Agreements for Resilient Critical Facilities (CAC Action Item)

Adopt a Resolution authorizing the CEO to negotiate and execute a PPA with Sunwealth LLC and a CSA with Gridscape Energy Solutions to file interconnection applications

The Committee discussed:

- The benefit that EBCE receives from installing energy storage
- The recent launch of EBCE's first virtual power plant
- The definition of "local contracting requirements"
- If there is a percentage requirement or goal for EBCE projects for local and small business contracting

- If any of these projects are subject to Project Labor Agreements

The Clerk read a written public comment (attached) from Jessica Tovar into the record:

In her letter, **Jessica Tovar** expressed appreciation for EBCE moving forward to ensure municipalities have access to financial incentives for the Resilient Municipal Critical Facilities Program. Jessica Tovar spoke in opposition to the CPUC's decision to scale back Net Energy Metering, as it is counter to the need for more local, reliable and truly clean energy. Jessica Tovar stated that in 2021 and 2022, the East Bay Clean Power Alliance advocated for EBCE to provide microgrids for community based organizations and applied for funding under the Transformative Climate Communities grant. However, she stated that there has been no communication from EBCE since then, and it is upsetting that community groups will no longer benefit financially from microgrids. In her letter, Jessica Tovar's stressed the importance of access to microgrids for the community during planned power shut-offs and unforeseen crises in light of current outages related to extreme weather.

Member Landry motioned to approve the staff recommendation. Member Swaminathan seconded the motion, which passed 8/0.

Abstain: Member Hu

Excused: Members Talreja, Pacheco and Hernandez

C7. Extension of Agreement with Weideman Group (CAC Action Item)

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

The Committee discussed:

- The success rate of the Weideman Group's advocacy for EBCE positions
- The Weideman Group's possible coordination with constituent groups in the EBCE service territory

A motion was not offered for this item.

C8. CAC Member and Staff Announcements including requests to place items on future CAC agendas

- **Chair Eldred reminded the CAC that the new Board Chair has been invited to the February 13, 2023 CAC meeting, and asked for CAC members to provide introductory statements.**
- **Alex DiGiorgio asked for the CAC to place a discussion about Community Innovation Grants on a future agenda.**
- **Member Landry requested that the CAC follow up with Tom Kelly. Member Landry requested that Chair Eldred report back to the CAC about her discussion with Tom Kelly.**

C9. Adjournment to Monday, February 13, 2023

Written Public Comment received ahead of the January 17, 2023 Community Advisory Committee Meeting

Letter #1:

Written Public Comment submitted by Edward F. Dijeu for the Community Advisory Committee on January 17, 2023 at 5:13pm

Letter#2:

Written Public Comment submitted by Jessica Tovar for the Community Advisory Committee on January 17, 2023 at 3:41pm

Letter #1: Written Public Comment submitted by Edward F. Dijeau for the Community Advisory Committee on January 17, 2023 at 5:13pm

With the advent of NEM3.0, where utilities are going to cut the Value of exported output of rooftop solar by 75%, will EBCE bring back the alternative of true electrical value of the actual cost of the electricity as billed for those customers with rooftop solar after April 14, 2023, and that must be on PG&E NEM 3.0, either as new customers or when their 20 years on the old plan ends? PG&E is profit orientated, but EBCE is a non-profit and promotes renewable energy. Any value under 10 cents per kilo watt hour would kill additional rooftop solar in the Bay Area because no one would want to lose money owning a rooftop solar system.

Letter #2: Written Public Comment submitted by Jessica Tovar for the Community Advisory Committee on January 17, 2023 at 3:41pm

We appreciate EBCE moving forward to ensure the financial incentive for the Resilient Municipal Critical Facilities Program is accessed by municipalities. The CPUC's decision to scale back Net Energy Metering or what we refer to as local solar incentives was counter to the need to produce more local, reliable and truly clean energy. This is why we urged EBCE and the community to oppose Gavin Newsom's CPUC's net energy meter 3.0 proposal that scales back local solar growth in the middle of a climate crisis in California. We agree that EBCE and the cities should apply before the deadline to ensure the benefit under net energy metering 2.0.

In 2021 several community based organizations along with East Bay Clean Power Alliance advocated for EBCE to provide microgrids for community based organizations. In 2022 we asked EBCE to apply for funding under the Transformative Climate Communities grant to fund these community based microgrids. The Chair of EBCE asked that EBCE staff follow up on this grant and there has been no communication from EBCE since then. We need the cooperation of EBCE moving forward so that our most vulnerable communities have access to resilient energy.

It is upsetting that our community groups will no longer stand to benefit from microgrids financially. Moving into 2023 and the current outages related to extreme weather such as the current storms; shows how critical it is for our community based organizations and their members to have access to microgrids. We still stand to benefit from keeping the power on during planned power shut offs and other unforeseen crises. We hope you share this urgency for our needs as you have for the cities you represent.

Clean Power to the People

Jessica Tovar, East Bay Clean Power Alliance"



EBCE Community Grants

February 2023



Grants Background

- The Local Development Business Plan identified the opportunity to develop a Community Investment Fund to allow EBCE to invest in local innovation strategies that align with organizational goals for local resilience, economic development, pollution reduction, and other community benefits.
- EBCE has issued a series of grants, including the 2019 Community Innovation Grants, 2020 COVID grants, workforce development grants and community sponsorships
- In June '22 the Board approved a \$4.2M budget for 3 years of Community Grants in the FY'23 budget

Community Grants Budget approval

- FY'23 budget approval for 3 year, \$4.2M Community Grant fund
- Board directed staff to consider fewer, larger grants that are multi-year, to invest in CBO engagement and capacity building (\$100k/year)
- Budget would allow for 4-5 grants of \$100k/year for 3-years
- Grants will be focused on promoting EBCE Programs and raising awareness

Funding Category	Transportation Electrification	Building Electrification	Community Resilience	Energy Efficiency
Program Enrollment				
Workforce Development				
Education / Awareness				

Schedule

February Community Advisory Committee – staff provides update/schedule to CAC

March – Staff develops initial framework for grants based on Local Program areas

March/April Community Advisory Committee – work session to develop Community Grant Plan, including identifying grant goals and developing a solicitation plan

May - Present Community Grant Plan to BOD for approval

June - EBCE issues solicitation for first round of grants

Community Innovation Grants

EBCE's 2019 Community Innovation Grants awarded \$240,000 in funding to 6 non-profit and community-based organizations for projects delivering energy-related social and environmental benefits to residents of Alameda County. Projects were evaluated based on criteria that assess an application's alignment with EBCE's goals and mission.

EBCE issued 6 grants to the following organizations:

- Ecology Action
- People Power Solar Cooperative
- Re-volv
- Community Impact LAB
- Rising Sun Center for Opportunity
- WORP West Oakland Environmental Indicators Project

[Community Innovation Grants Website](#)



CAC Item C6
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%



CAC Item C7

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

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



CAC Item C8

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.



CAC Item C9
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 costs, mileage (at the IRS rate), 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.