



## **DESERT COMMUNITY ENERGY BOARD MEETING AGENDA**

**Tuesday, September 26, 2023  
1:30 p.m.**

**Palm Springs City Hall  
Large Conference Room  
3200 E. Tahquitz Canyon Way  
Palm Springs CA 92262**

Members of the public may use the following link for listening access and ability to address the Desert Community Energy Board when called upon:

<https://us02web.zoom.us/j/85009952207?pwd=SFFPQkdmcTM4UjNISVo4V2JrZ2Judz09>

**Dial In: +1 669 900 9128 US**

**Webinar ID: 850 0995 2207**

**Password: 125581**

**IF YOU ARE UNABLE TO CONNECT VIA DIAL IN OPTION,  
PLEASE CALL 760-346-1127.**

Members of the public are encouraged to submit comment in connection with the Desert Community Energy meeting by email to: [cvag@cvag.org](mailto:cvag@cvag.org) by 5:00 p.m. on the day prior to the Board meeting. Comments intended to be read aloud into the record should be no more than 300 characters in length.

**THIS MEETING IS HANDICAPPED ACCESSIBLE.  
ACTION MAY RESULT ON ANY ITEMS ON THIS AGENDA.**

1. **CALL TO ORDER** – Chair Lisa Middleton, Councilmember, City of Palm Springs

2. **ROLL CALL**

A. **Member Roster**

**P4**

3. **AGENDA MODIFICATIONS (IF ANY)**

4. **PUBLIC COMMENTS ON AGENDA ITEMS**

Any person wishing to address the Desert Community Energy Board on items appearing on this agenda may do so at this time. Please limit comments to 3 minutes. At the discretion of the chair, additional public comment time and/or opportunities during the meeting may be granted.

5. **BOARD MEMBER / EXECUTIVE DIRECTOR COMMENTS**

6. **CONSENT CALENDAR**

A. **Approve Minutes from the June 27, 2023 Board Meeting**

**P5**

B. **Approve continued participation as an operational member in the California Community Choice Association for an annual membership rate of \$94,944**

**P9**

C. **Authorize the Executive Director to execute a letter of engagement with Best Best & Krieger to provide legal services**

**P12**

D. **Adopt Resolution No. 2023-04, approving the 2022 Power Content Label for Desert Community Energy**

**P18**

7. **DISCUSSION / ACTION**

A. **DCE Mid-term Reliability Procurement: Desert Sands Energy Storage Project – David Freedman**

**P23**

**Recommendation:** Adopt Resolution No. 2023-05, approving a 15-year Energy Storage Agreement with Desert Sands Energy Storage II, LLC, and authorizing the Executive Director and/or Legal Counsel to make minor modifications before execution of the agreement

B. **Investment Policy for DCE – Claude Kilgore**

**P35**

**Recommendation:** Adopt DCE Policy No. 23-03 and establish an Investment Policy

C. **Presentation: DCE Financial Outlook – Jaclyn Harr, The Energy Authority**

**P42**

**Recommendation:** Information

8. **INFORMATION**

- A) Attendance Record P43
- B) Unaudited Year-to-Year Financial Report as of June 30, 2023 P44
- C) Bill Protection for Rosa Gardens Apartments Residents P47
- D) Solar Opportunities along Indian Canyon Drive P51
- E) Demand Side Grid Support and Distributed Electricity Backup Assets Programs P57

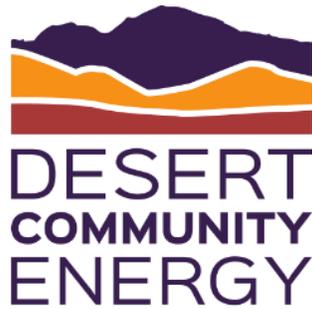
9. **PUBLIC COMMENTS ON NON-AGENDA ITEMS**

Any person wishing to address the Board on items not appearing on this agenda may do so at this time. Please limit comments to 2 minutes. At the discretion of the chair, additional public comment time and/or opportunities during the meeting may be granted.

10. **ANNOUNCEMENTS**

The October meeting is being cancelled. The next DCE meeting will be held November 20, 2023 at 3:00 p.m. at the Coachella Valley Association of Governments' office, 74-199 El Paseo Drive, Suite 100, Palm Desert, 92260.

11. **ADJOURNMENT**



## DESERT COMMUNITY ENERGY BOARD MEMBER ROSTER

Voting Members	Seat on Committee	Representative
City of Palm Desert	Vice Chair	<b>Veronica Chavez</b> Finance Director <i>Alternate: Mayor Kathleen Kelly</i>
City of Palm Springs	Chair	<b>Lisa Middleton</b> Councilmember <i>Alternate: Mayor Pro Tem Jeffrey Bernstein</i>
DCE Staff		
Tom Kirk, Executive Director		
David Freedman, Program Manager		
Emily Langenbahn, Management Analyst		
Janice Reitman, Accounting Manager		

## **ITEM 6A**

**Desert Community Energy Board  
Meeting Minutes  
June 27, 2023**



The audio file for this meeting can be found at: <http://www.desertcommunityenergy.org>

### **1. CALL TO ORDER**

The meeting of the DCE Board was called to order by Chair Middleton at 3:02 p.m. at Palm Springs City Hall's Large Conference Room, at 3200 E. Tahquitz Canyon Way, Palm Springs, 92262.

### **2. ROLL CALL**

Roll call was taken, and it was determined that a quorum was present.

#### **Members Present**

Councilmember Lisa Middleton, Chair  
Finance Director Veronica Chavez, Vice Chair

#### **Member Jurisdiction**

City of Palm Springs  
City of Palm Desert

### **3. AGENDA MODIFICATIONS (IF ANY)**

DCE Program Manager David Freedman noted there was a slight wording change in Agenda Item 6E and the proposed bad debt policy (No. 23-02).

### **4. PUBLIC COMMENTS ON AGENDA ITEMS**

None

### **5. BOARD MEMBER / DIRECTOR COMMENTS**

Mr. Freedman recognized DCE staff members for their hard work on DCE's newly designed budget book. He also updated the Board on plans by the Coachella Valley Association of Governments to secure funding for bridges along Indian Canyon Drive, and noted the potential to incorporate solar opportunities that benefit DCE customers into the grant application.

Mr. Freedman noted there would be no Board meeting in July, and Board members pointed out scheduling conflicts with the currently scheduled August 21 meeting.

### **6. CONSENT CALENDAR**

Prior to the vote, agenda Items 6B and 6E were pulled from the consent calendar.

**IT WAS MOVED BY VICE CHAIR CHAVEZ AND SECONDED BY CHAIR MIDDLETON TO APPROVE CONSENT CALENDAR ITEMS 6A, 6C, 6D, 6F AND 6G:**

- A. Approve Minutes from the May 12, 2023 Board Meeting**
- B. This item was pulled from the consent calendar.**
- C. Adopt DCE Policy No. 23-01 for Net Energy Metering Service, which replaces Policy No. 2021-01 and includes language for the Solar Billing Program for DCE customers with onsite solar and battery storage systems**
- D. Authorize the updating of the signature cards and signatories for DCE investments and banking**
- E. This item was pulled from the consent calendar.**
- F. Approve a clarifying amendment to DCE Policy No. 18-10 Financial Reserve Policy**
- G. Authorize the Executive Director to issue a notice of termination of the amended Renewable Power Purchase Agreement with Deer Creek Solar I**

**THE MOTION CARRIED WITH 2 AYES.**

<b>Councilmember Middleton</b>	<b>Aye</b>
<b>Finance Director Chavez</b>	<b>Aye</b>

At the request of Finance Director Chavez, Mr. Freedman provided additional background on how the data is collected for the Power Source Disclosure Annual Report.

**IT WAS MOVED BY VICE CHAIR CHAVEZ AND SECONDED BY CHAIR MIDDLETON TO APPROVE CONSENT CALENDAR ITEM 6B AND ADOPT RESOLUTION 2023-02, APPROVING THE 2022 POWER SOURCE DISCLOSURE (PSD) ANNUAL REPORT AND ASSOCIATED 2022 POWER CONTENT LABELS FOR DESERT SAVER AND CARBON FREE PRODUCTS, AND ATTEST TO THEIR VERACITY**

**THE MOTION CARRIED WITH 2 AYES.**

<b>Councilmember Middleton</b>	<b>Aye</b>
<b>Finance Director Chavez</b>	<b>Aye</b>

Mr. Freedman noted there was an unnecessary reference in the Policy section on collections, and asked that “in Section C.1” be struck from the policy.

**IT WAS MOVED BY CHAIR MIDDLETON AND SECONDED BY VICE CHAIR CHAVEZ TO APPROVE CONSENT CALENDAR ITEM 6E AND ADOPT DCE POLICY NO. 23-02, THE RESTATED DELINQUENT ACCOUNTS, COLLECTIONS, AND BAD DEBT POLICY**

**THE MOTION CARRIED WITH 2 AYES.**

**Councilmember Middleton**  
**Finance Director Chavez**

**Aye**  
**Aye**

## **7. DISCUSSION / ACTION**

### **A. DCE Fiscal Year 2023/24 Budget–** Claude Kilgore

Finance Director Claude Kilgore provided the staff report and budget highlights. Member discussion ensued, with Mr. Kilgore answering questions about the reserves and potential for future investment options.

**IT WAS MOVED BY VICE CHAIR CHAVEZ AND SECONDED BY CHAIR MIDDLETON TO ADOPT RESOLUTION 2023-03 APPROVING DESERT COMMUNITY ENERGY'S FISCAL YEAR 2023/24 BUDGET**

**THE MOTION CARRIED WITH 2 AYES.**

**Councilmember Middleton**  
**Finance Director Chavez**

**Aye**  
**Aye**

### **B. Presentation: Historical & Forecasted Energy Prices In a Volatile Market –** Jaclyn Harr, The Energy Authority

Jaclyn Harr, Client Services Manager with The Energy Authority, provided an in-depth presentation via Zoom videoconference that included a look at trends and discussion on energy hedging.

It was noted by the Board that future presentations should be included in the agenda packet and include streamlined slides.

This item was an informational item with no action taken

## **8. INFORMATION**

The following items were included in the agenda packet for members' information :

- A) Attendance Record
- B) Unaudited Year-to-Year Financial Report as of April 30, 2023
- C) Renewable and Mid-Term Reliability 2023 Request for Proposals
- D) Southern California Edison General Rate Case
- E) July 2023 Rate Adjustment Summary
- F) DCE's 2023 Summer Readiness Outreach Strategy

## **9. PUBLIC COMMENT ON NON-AGENDA ITEMS**

None.

## **10. ANNOUNCEMENTS**

The July meeting is being cancelled. The next DCE meeting will be held August 21 at 3:00 p.m. at the Large Conference Room at Palm Springs City Hall, 3200 E. Tahquitz Canyon Way, Palm Springs, 92262.

## **11. ADJOURNMENT**

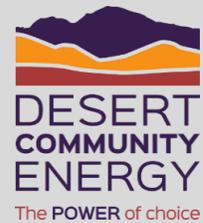
Chair Middleton adjourned the meeting at 3:51 p.m.

Respectfully submitted,

*Erica Felci, Chief Operating Officer*

## **ITEM 6B**

Desert Community Energy Board  
September 26, 2023



### **STAFF REPORT**

**Subject:** California Community Choice Association Operational Membership

**Contact:** David Freedman, Program Manager ([dfreedman@cvag.org](mailto:dfreedman@cvag.org))

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**Recommendation: Approve continued participation as an operational member in the California Community Choice Association for an annual membership rate of \$94,944**

**Background:** In June 2020, the DCE Board approved operational membership in the California Community Choice Association (CalCCA), a non-profit association of Community Choice Aggregators (CCAs). CalCCA serves its members and strengthens their collective voice through education, technical guidance, and regulatory and legislative advocacy. CalCCA's mission is to create a legislative and regulatory environment that supports the development and long-term sustainability of locally operated CCAs in California. CalCCA represents the interests of CCAs in the legislature and at state regulatory agencies, including the California Public Utilities Commission (CPUC), California Energy Commission (CEC), California Air Resources Board (CARB) and the California Independent System Operator (CAISO). CalCCA's membership is comprised of the 24 CCAs serving customers in California, with membership expected to increase as CCAs continue to launch. CalCCA members are reliably serving upwards of 14 million customers in more than 200 California cities and counties. More information about CalCCA and the resources they offer is available at <https://cal-cca.org>.

There are wide-ranging benefits to being actively connected to the 23 other CCAs in California. CalCCA has a diverse array of committees that offer opportunities for education and collaboration to CCA members. DCE staff regularly attends CalCCA committee meetings, which cover regulatory issues, legislative, compliance, billing, procurement, and marketing. CalCCA also facilitates working groups of CCAs interested in specific topics, including risk management, transportation electrification and the implementation of the Solar Billing Plans for solar customers discussed at the last DCE Board meeting.

Given DCE's small staff, participating in these committees and working groups offers great value. Having CalCCA's assistance in real-time tracking of regulatory and legislative issues affecting CCAs is an important benefit. The compliance committee offers insight and guidance on the compliance reports and plans that DCE is required to submit. The marketing committee offers a valuable opportunity to share ideas, best practices, and challenges with other CCAs. As an operational member, DCE has access to a large compilation of CalCCA resources including sample agreements, data analysis, contracts, and legislative and regulatory tracking.

CalCCA is actively engaged with the legislature, CPUC, CEC, CARB and CAISO on issues important to DCE. Among the proceedings on which CalCCA is currently focused is the CPUC's Provider of Last Resort proceeding. In this proceeding, the CPUC will set the criteria for the financial security requirement (FSR) that CCAs such as DCE must post with the Investor-Owned Utility (IOU) that serves them to cover increased costs the IOU may incur should there be an involuntary return of the CCA's customers to the IOU because the CCA is no longer able to serve

those customers. In May 2022, CalCCA joined DCE in successfully protesting Southern California Edison's request to increase DCE's FSR from \$147,000 to almost \$5.2 million.

DCE started as an Affiliate Member of CalCCA in 2017 and became an operational member with the launch in the City of Palm Springs in 2020. For Fiscal Year 2023/24, dues are calculated based on members' fiscal year revenue multiplied by 0.138% as long as it does not exceed a cap of \$405,000.

The DCE Board has directed staff to review the CalCCA membership on an annual basis. In June 2020, the Board gave the Executive Director the flexibility to determine whether DCE would have a voting position on the CalCCA Board, which comes with a significant time commitment for meetings. This year, staff recommends that the DCE Board approve continued operational membership in CalCCA. Staff is not recommending that DCE have a voting position on the CalCCA Board, considering the required time commitment.

**Fiscal Analysis:** CalCCA's membership dues are based on a formula. Using this formula, the dues are \$94,944, which is 0.138% of DCE FY 2023/24 revenues of \$68.8 million projected when CalCCA made the dues calculation.

CalCCA invoices DCE quarterly and the cost is included in DCE's Fiscal Year 2023/24 budget. CalCCA did not change the dues in FY2022/23; therefore, DCE paid membership dues of \$84,496, based on FY21/22 revenue of \$42 million in the prior two fiscal years and a dues assessment of 0.1918% of CCA revenue.

**Attachment:** CalCCA's membership renewal letter



## California Community Choice Association

### Operational Member Dues

**Fiscal Year 2023-2024  
(July 1, 2023-June 30, 2024)**

### Desert Community Energy

Dear Mr. Potter,

On April 13, 2023, the CalCCA Board unanimously approved the proposed FY 23-24 budget and corresponding changes to the Operational Membership dues methodology<sup>1</sup>. Under the new methodology, the Board agreed to the following:

- The dues calculation will continue to be based on CCA revenue and will no longer include a fixed cost for a seat on the Board of Directors;
- The dues percentage calculation will decrease from .1918% of CCA revenue to .138%; and
- The annual dues payment cap will increase from \$365,982 to \$405,000.

Based on this, the annual contribution for Desert Community Energy will be \$94,944 for the upcoming fiscal year.

Quarterly payment invoices will be sent at the beginning of each fiscal year quarter (July, October, January, and April) from the CalCCA QuickBooks system to your contact(s) on file. Payments are due 30 days after receipt of the invoice.

Please do not hesitate to contact me if you have any questions or would like to discuss your membership. We sincerely appreciate your continued partnership and involvement in CalCCA as we celebrate our seventh year of operations.

Thank you,

/s/Martha Serianz

Martha Serianz  
California Community Choice Association  
510-290-4187  
[martha@cal-cca.org](mailto:martha@cal-cca.org)

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<sup>1</sup> [07\\_Proposed FY23-24 CalCCA Budget and Dues.pdf](#) Presentation of the FY 23-24 Budget and Dues Methodology provided to the CalCCA Board of Directors at the April 13, 2023 monthly meeting.

## **ITEM 6C**

Desert Community Energy Board  
September 26, 2023



### **STAFF REPORT**

**Subject:** Letter of Engagement with Best Best & Krieger for Legal Services

**Contact:** Allen McMillen, Contracts Analyst II ([amcmillen@cvag.org](mailto:amcmillen@cvag.org))

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**Recommendation:** Authorize the Executive Director to execute a letter of engagement with Best Best & Krieger to provide legal services

**Background:** Best Best & Krieger (BB&K) has been providing legal services to DCE through the Coachella Valley Association of Governments (CVAG) under the Implementation and Management Services Agreement between DCE and CVAG. The agreement was first approved in 2017 and extended for a further five years at the September 2022 DCE Board meeting. DCE legal matters currently are primarily handled by Ryan M.F. Baron, a BB&K Partner.

DCE needs specialized legal services for energy regulatory and procurement matters that are unique to Community Choice Aggregation (CCA) energy programs such as DCE's. More recently, Mr. Baron has been performing increased legal services for DCE related to various contractual, procurement, and regulatory matters.

Considering the extensive legal work that BB&K is performing for DCE, staff is recommending DCE now have a direct engagement with BB&K by signing the letter of engagement attached to this staff report. Under this letter, matters will continue to be handled by Mr. Baron and other attorneys at BB&K under his coordination to provide legal oversight for the necessary contractual relationships for DCE's CCA program, and related legal services for various energy regulatory and procurement matters. This approach is similar to the one maintained by the Coachella Valley Conservation Commission, which also contracts with CVAG for staffing.

**Fiscal Analysis:** The letter of engagement authorizes legal expenses on an as-needed, time and materials basis. This letter is consistent with the arrangement DCE currently has with BB&K through DCE's agreement with CVAG. In addition to DCE's direct agreement with BB&K, some legal costs may be incurred for general counsel services through DCE's agreement with CVAG.

DCE's approved Fiscal Year 2023/24 budget has an amount of \$103,500 for legal services, which is part of the contracts and contract labor category. There has been an increase in procurement projects and pending regulatory and other legal matters this year, so it is possible that legal costs may exceed the budgeted amount. Staff would return to the Board for direction should these costs cause the contract labor category to exceed the budget.

**Attachment:** Letter of Engagement with Best Best & Krieger



Ryan M. F. Baron  
Partner  
(949) 263-6568  
ryan.baron@bbklaw.com

September 26, 2023

**VIA E-MAIL**

Tom Kirk, Executive Director  
Desert Community Energy  
74-199 El Paseo, Suite 100  
Palm Desert, CA 92260

Re: Engagement of Best Best & Krieger LLP

Dear Mr. Kirk:

ABOUT OUR REPRESENTATION

Best Best & Krieger LLP is pleased to represent Desert Community Energy (“DCE”) as a continuation of our representation of DCE through Coachella Valley Association of Governments (“CVAG”). This letter constitutes our agreement setting the terms of our representation. If you want us to continue representation of DCE and agree to the terms set forth in this letter, after you review the letter please sign it and return the signed copy to us.

CONFIDENTIALITY AND ABSENCE OF CONFLICTS

An attorney-client relationship requires mutual trust between the client and the attorney. It is understood that communications exclusively between counsel and the client are confidential and protected by the attorney-client privilege.

To also assure mutuality of trust, we have maintained a conflict of interest index. The California Rules of Professional Conduct defines whether a past or present relationship with any party prevents us from representing DCE. Similarly, DCE will be included in our list of clients to ensure we comply with the Rules of Professional Conduct with respect to DCE.

As we do each year, we continue to check conflicts against our client index on each new matter as it arises. At this time, we know of no existing conflicts with DCE.

YOUR OBLIGATIONS ABOUT FEES AND BILLINGS

Our rates are as follows:

Partners and Of Counsel	\$365
Associates	\$295
Paralegals, Clerks & Analysts	\$185

The rates set forth herein shall be adjusted on January 1<sup>st</sup> of each calendar year for cost of living as shown by the U.S. Department of Labor in its All Urban Consumers Index as set forth for the Riverside-San Bernardino-Ontario Area.

The billing policies are described in the memorandum attached to this letter, entitled “Best Best & Krieger LLP’s Billing Policies.” You should consider the Billing Policies memorandum part of this agreement as it binds both of us. Considering our past representation of DCE through CVAG, to the extent of any conflict with the Billing Policies attached herein and the Billing Policies in our CVAG engagement, the CVAG Billing Policies will prevail (with the exception of any fees or costs that may change from time-to-time). For that reason, you should read it carefully.

#### INSURANCE

We are pleased to let you know that Best Best & Krieger LLP carries errors and omissions insurance with Lloyd’s of London. After a standard deductible, this insurance provides coverage beyond what is required by the State of California.

#### NEW MATTERS

When we are engaged by a new client on a particular matter, we are often later asked to work on additional matters. You should know that such new matters will be the subject of a new signed supplement to this agreement. Similarly, this agreement does not cover and is not a commitment by either of us that we will undertake any appeals or collection procedures. Any such future work would also have to be agreed upon in a signed supplement.

#### CIVILITY IN LITIGATION

In litigation, courtesy is customarily honored with opposing counsel, such as extensions to file pleadings or responses to other deadlines. In our experience, the reciprocal extension of such courtesies saves our clients’ time and money. By signing this letter you will be confirming your approval of this practice in your case.

#### HOW THIS AGREEMENT MAY BE TERMINATED

You, of course, have the right to end our services at any time. If you do so, you will be responsible for the payment of fees and costs accrued but not yet paid, plus reasonable fees and costs in transferring the case to you or your new counsel. By the same token, we reserve the right to terminate our services to you upon written notice, order of the court, or in accordance with our attached Billing Policies memorandum. This could happen if you fail to pay our fees and costs as agreed, fail to cooperate with us in this matter, or if we determine we cannot continue to represent you for ethical or practical concerns.

CLIENT FILE

If you do not request the return of your file, we will retain your file for five years. After five years, we may have your file destroyed. If you would like your file maintained for more than five years or returned, you must make separate arrangements with us.

THANK YOU

On a personal note, we are pleased that you have selected Best Best & Krieger LLP to continue to represent DCE. We look forward to a long and valued relationship with you and appreciate your confidence in selecting us to represent DCE in these matters. If you have any questions at any time about our services or billings, please do not hesitate to call me.

If this letter meets with your approval, please sign and date it, and return the original to us by October 10, 2023.

Sincerely,



Ryan M. F. Baron  
of BEST BEST & KRIEGER LLP

RMB:ab

AGREED AND ACCEPTED:

DESERT COMMUNITY ENERGY

By: \_\_\_\_\_  
Tom Kirk, Executive Director

Dated: \_\_\_\_\_

## BEST BEST & KRIEGER LLP'S BILLING POLICIES

Our century of experience has shown that the attorney-client relationship works best when there is mutual understanding about fees, expenses, billing and payment terms. Therefore, this statement is intended to explain our billing policies and procedures. Clients are encouraged to discuss with us any questions they have about these policies and procedures. Clients may direct specific questions about a bill to the attorney with whom the client works or to our Accounts Receivable Department (accounts.receivable@bbklaw.com). Any specific billing arrangements different from those set forth below will be confirmed in a separate written agreement between the client and the firm.

### INVOICE AND PAYMENT OPTIONS

Best Best & Krieger strives to meet our clients' needs in terms of providing a wide variety of invoice types, delivery and payment options. Please indicate those needs including the preferred method of invoice delivery (Invoice via Email; or USPS). In addition, accounts.receivable@bbklaw.com can provide a W-9 upon request and discuss various accepted payment methods.

### FEES FOR PROFESSIONAL SERVICES

Unless a flat fee is set forth in our engagement letter with a client, our fees for the legal work we will undertake will be based in substantial part on time spent by personnel in our office on that client's behalf. In special circumstances which will be discussed with the client and agreed upon in writing, fees will be based upon the novelty or difficulty of the matter, or the time or other special limitations imposed by the client.

Hourly rates are set to reflect the skill and experience of the attorney or other legal personnel rendering services on the client's behalf. All legal services are billed in one-tenth of an hour (0.10/hour) or six-minute increments. Our attorneys are currently billed at rates from \$235 to \$895 per hour, and our administrative assistants, research assistants, municipal analysts, litigation analysts, paralegals, paraprofessionals and law clerks are billed at rates from \$175 to \$300 per hour for new work. These rates reflect the ranges in both our public and our private rates. These hourly rates are reviewed annually to accommodate rising firm costs and to reflect changes in attorney status as lawyers attain new levels of legal experience. Any increases resulting from such reviews will be instituted automatically and will apply to each affected client, after advance notice.

Non-Attorney Personnel: BBK may employ the services of non-attorney personnel under the supervision of  
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a BBK attorney in order to perform services called for in the legal services agreement. The most common non-attorney personnel utilized are paralegals. Other types of non-attorney personnel include, but are not limited to, case clerks, litigation analysts, and specialty consultants. The client agrees that BBK may use such non-attorney personnel to perform its services when it is reasonably necessary in the judgment of the responsible BBK attorney. Hourly fees for non-attorney personnel will be charged at the rate then in effect for such personnel. A copy of BBK's current rates and titles for non-attorney personnel will be provided upon request.

### FEES FOR ELECTRONICALLY STORED INFORMATION ("ESI") SUPPORT AND STORAGE

BBK provides Electronically Stored Information ("ESI") services for matters requiring ESI support – typically litigation or threatened litigation matters. BBK provides services for basic ESI processing and storage at the following rates per month based on the number of gigabytes of data ("GB") processed and stored:

1GB -250GB: \$10 per GB

251GB - 550GB: \$8 per GB

551GB - 750GB: \$6 per GB

751GB - 1TB: \$4 per GB

The amount BBK charges for basic processing and storage of ESI allows BBK to recover the costs of providing such services, plus a net profit for BBK. BBK believes that the rates it charges for processing and storage are lower than comparable services available from third party vendors in the market. If you wish to contract separately with a third party vendor for processing and storage costs, please notify BBK in writing. BBK shall not incur costs for ESI support on a particular matter without first confirming by email or written correspondence with the client that the client agrees such services are necessary for the matter at hand.

### FEES FOR OTHER SERVICES, COSTS AND EXPENSES

We attempt to serve all our clients with the most effective support systems available. Therefore, in addition to fees for professional legal services, we also charge separately for some other services and expenses to the extent of their use by individual clients. These charges include but are not limited to, mileage at the current IRS approved rate per mile, extraordinary telephone and document delivery charges, copying charges, computerized research, court filing fees and other court-related expenditures including court reporter and transcription fees. No separate charge is

made for secretarial or word processing services; those costs are included within the above hourly rates.

We may need to advance costs and incur expenses on your behalf on an ongoing basis. These items are separate and apart from attorneys' fees and, as they are out-of-pocket charges, we need to have sufficient funds on hand from you to pay them when due. We will advise the client from time to time when we expect items of significant cost to be incurred, and it is required that the client send us advances to cover those costs before they are due.

#### ADVANCE DEPOSIT TOWARD FEES AND COSTS

Because new client matters involve both a substantial undertaking by our firm and the establishment of client credit with our accounting office, we require an advance payment from clients. The amount of this advance deposit is determined on a case-by-case basis discussed first with the client, and is specified in our engagement letter.

Upon receipt, the advance deposit will be deposited into the firm's client trust account. Our monthly billings will reflect such applications of the advance deposit to costs and not to attorney's fees (unless otherwise noted in our accompanying engagement letter). At the end of engagement, we will apply any remaining balance first to costs and then to fees. We also reserve the right to require increases or renewals of these advanced deposits.

By signing the initial engagement letter, each client is agreeing that trust account balances may be withdrawn and applied to costs as they are incurred and to our billings, when we issue our invoice to the client. If we succeed in resolving your matter before the amounts deposited are used, any balance will be promptly refunded.

#### MONTHLY INVOICES AND PAYMENT

Best Best & Krieger LLP provides our clients with monthly invoices for legal services performed and expenses incurred. Invoices are due and payable upon receipt.

Each monthly invoice reflects both professional and other fees for services rendered through the end of the prior month, as well as expenses incurred on the client's behalf that have been processed by the end of the prior month. Processing of some expenses is delayed until the next month and billed thereafter.

Our fees are not contingent upon any aspect of the matter and are due upon receipt. All billings are due and payable within ten days of presentation unless the full amount is covered by the balance of an advance held in our trust account.

It is our policy to treat every question about a bill promptly and fairly. It is also our policy that if a client does not pay an invoice within 60 days of mailing, we assume the client is, for whatever reason, refusing to pay. We reserve the right to terminate our engagement and withdraw as attorney of record whenever our invoices are not paid. If an invoice is 60 days late, however, we may advise the client by letter that the client must pay the invoice within 14 days or the firm will take appropriate steps to withdraw as attorney of record. If the delay is caused by a problem in the invoice, we must rely upon the client to raise that with us during the 14-day period. This same policy applies to fee arrangements which require the client to replenish fee deposits or make deposits for anticipated costs.

From time to time clients have questions about the format of the bill or description of work performed. If you have any such questions, please ask them when you receive the bill so we may address them on a current basis.

#### CHANGES IN FEE ARRANGEMENTS AND BUDGETS

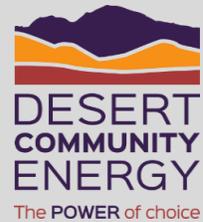
It may be necessary under certain circumstances for a client to increase the size of required advances for fees after the commencement of our engagement and depending upon the scope of the work. For example, prior to a protracted trial or hearing, the firm may require a further advance payment to the firm's trust account sufficient to cover expected fees. Any such changes in fee arrangements will be discussed with the client and mutually agreed in writing.

Because of the uncertainties involved, any estimates of anticipated fees that we provide at the request of a client for budgeting purposes, or otherwise, can only be an approximation of potential fees.

#### BEST BEST & KRIEGER LLP

## ITEM 6D

Desert Community Energy Board  
September 26, 2023



### STAFF REPORT

**Subject:** 2022 Annual Power Content Label

**Contact:** Savannah Gil, Program Specialist ([sgil@cvaq.org](mailto:sgil@cvaq.org))  
David Freedman, Program Manager ([dfreedman@cvaq.org](mailto:dfreedman@cvaq.org))

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### **Recommendation: Adopt Resolution No. 2023-04, approving the 2022 Power Content Label for Desert Community Energy**

**Background:** All retail sellers of electricity, including Community Choice Energy providers such as DCE, are required by Senate Bill 1305, codified in Section 398.1 of the California Public Utilities Code (CPUC), to disclose “accurate, reliable, and simple-to-understand information on the sources of energy” that are delivered to their customers each year. DCE is required to submit an annual Power Content Label to the California Energy Commission (CEC) by September 30 of each year.

In June 2023, the DCE Board adopted Resolution 2023-02, approving the 2022 Power Source Disclosure (PSD) Annual Report and associated 2022 Power Content Labels for the Desert Saver and Carbon Free products. Since filing the 2022 Power Source Disclosure Annual Report, the CEC has created a different format and requested additional information for the 2022 Power Content Label for a filing due September 30. The 2022 Power Content Label (attached) to this staff report, will be posted on the CEC website and has already been posted on the DCE website. Upon Board approval, the 2022 Power Content Label information will also be sent to all DCE customers.

Staff recommends that the Board adopt Resolution 2023-04 approving DCE’s 2022 Power Content Label. The attached resolution also confirms that the Board attests to the veracity of the data in the Power Content Label. Adoption of the resolution enables DCE to comply with the CEC regulations implementing SB 1305 (California Code of Regulations, Title 20, Article 5, Sections 1391 to 1394).

#### *Summary of 2022 Power Content Label*

As shown in the attached 2022 Power Content Label, DCE provided Desert Saver customers with an energy supply consisting of 62.1% large hydroelectric facilities and 37.9% of unspecified power resources, meaning electricity that has been purchased through open market transactions and is not traceable to a specific generation source. DCE provided 100% carbon-free energy to Carbon Free customers, including 26.3% renewable energy eligible under the state’s Renewable Portfolio Standard purchased from solar facilities (9.2%), wind facilities (14.5%), and small hydropower facilities (2.7%). The remaining carbon-free energy was purchased from large hydropower

facilities (73.7%). Based on Staff's review of available data, the information presented in the 2022 Power Content Label was determined to be accurate.

DCE staff also analyzed the Greenhouse Gas (GHG) emissions intensity of its Desert Saver and Carbon products as reported in its 2022 Power Content Label. Compared with the reported GHG emissions intensity in Southern California Edison's 2022 Power Content Label, DCE customers reduced GHG emissions in Palm Springs by 65,701 metric tons, which is equivalent to removing 14,620 gasoline-powered vehicles from our roads. Staff calculated GHG emissions savings by using the U.S. Environmental Protection Agency's [Greenhouse Gas Equivalencies Calculator](#).

**Fiscal Analysis:** Adoption of Resolution 2023-04 does not result in any financial impact to DCE.

**Attachments:**

1. Resolution 2023-04 approving 2022 Power Content Label
2. 2022 Power Content Label for Desert Community Energy

**RESOLUTION NO. 2023-04**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF  
DESERT COMMUNITY ENERGY  
APPROVING AND ATTESTING TO THE VERACITY OF THE 2022  
POWER CONTENT LABEL FOR THE DESERT SAVER PRODUCT AND  
CARBON FREE PRODUCT**

A. Desert Community Energy (DCE) is a joint powers authority established on October 30, 2017, for the purpose of implementing community choice aggregation programs under Public Utilities Code Section 366.2.

B. Senate Bill 1305 was adopted in 1997, establishing an Electricity Generation Source Disclosure Program ("Power Source Disclosure Program"), which requires retail suppliers of electricity to disclose to their customers each year the sources of electricity delivered to customers in the previous year, and to annually submit a Power Content Label to the California Energy Commission ("CEC").

C. Desert Community Energy is a retail supplier of electricity as defined by the Power Source Disclosure Program (California Code of Regulations, Title 20, Article 5, Sections 1391 to 1394, "Power Source Disclosure Regulations").

D. The Power Source Disclosure Regulations were updated effective May 4, 2020, allowing the board of directors of a public agency providing electric services to approve, at a public meeting, the submission to the CEC of an attestation of the veracity of each product's 2022 Power Content Label.

E. DCE Staff and consultants performed a detailed review of all power purchases completed for the 2022 calendar year, including an inventory of all renewable energy transfers within DCE's WREGIS account, and transaction records.

F. Pursuant to the Power Source Disclosure Regulations, the Board is required to attest to the veracity of the 2022 Power Content Label.

G. The Board desires to attest to the veracity of the 2022 Content Label so that all the required statements and attestations required by the Power Source Disclosure Regulations are contained in one resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF  
DESERT COMMUNITY ENERGY, AS FOLLOWS:**

1. Approves the submission and attests to the veracity of the attached 2022 Power Content Label for Desert Community Energy.

**PASSED AND ADOPTED** at a meeting of the Board of Directors of Desert Community Energy held on September 26, 2023.

ATTEST:

\_\_\_\_\_  
Lisa Middleton, Chair  
Desert Community Energy

\_\_\_\_\_  
Tom Kirk, Secretary  
Desert Community Energy

AYES: \_\_\_\_\_ NAYS: \_\_\_\_\_ ABSENT: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_

## 2022 POWER CONTENT LABEL

### Desert Community Energy

<https://desertcommunityenergy.org/about/key-documents/>

Greenhouse Gas Emissions Intensity (lbs CO <sub>2</sub> e/MWh)			Energy Resources	DCE Carbon Free	DCE Desert Saver	2022 CA Power Mix
DCE Carbon Free	DCE Desert Saver	2022 CA Utility Average	<b>Eligible Renewable<sup>1</sup></b>	<b>26.3%</b>	<b>0.0%</b>	<b>35.8%</b>
<b>0</b>	<b>357</b>	<b>422</b>	Biomass & Biowaste	0.0%	0.0%	2.1%
<p style="text-align: center;">■ DCE Carbon Free ■ DCE Desert Saver ■ 2022 CA Utility Average</p>			Geothermal	0.0%	0.0%	4.7%
			Eligible Hydroelectric	2.7%	0.0%	1.1%
			Solar	9.2%	0.0%	17.0%
			Wind	14.5%	0.0%	10.8%
			<b>Coal</b>	<b>0.0%</b>	<b>0.0%</b>	<b>2.1%</b>
			<b>Large Hydroelectric</b>	<b>73.7%</b>	<b>62.1%</b>	<b>9.2%</b>
			<b>Natural Gas</b>	<b>0.0%</b>	<b>0.0%</b>	<b>36.4%</b>
			<b>Nuclear</b>	<b>0.0%</b>	<b>0.0%</b>	<b>9.2%</b>
			<b>Other</b>	<b>0.0%</b>	<b>0.0%</b>	<b>0.1%</b>
			<b>Unspecified Power<sup>2</sup></b>	<b>0.0%</b>	<b>37.9%</b>	<b>7.1%</b>
			<b>TOTAL</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>
<b>Percentage of Retail Sales Covered by Retired Unbundled RECs<sup>3</sup>:</b>				<b>0%</b>	<b>0%</b>	

<sup>1</sup>The eligible renewable percentage above does not reflect RPS compliance, which is determined using a different methodology.

<sup>2</sup>Unspecified power is electricity that has been purchased through open market transactions and is not traceable to a specific generation source.

<sup>3</sup>Renewable energy credits (RECs) are tracking instruments issued for renewable generation. Unbundled renewable energy credits (RECs) represent renewable generation that was not delivered to serve retail sales. Unbundled RECs are not reflected in the power mix or GHG emissions intensities above.

For specific information about this electricity portfolio, contact:

**Desert Community Energy**  
**(855) 357-9240**

For general information about the Power Content Label, visit:

<https://www.energy.ca.gov/programs-and-topics/programs/power-source-disclosure-program>

## **ITEM 7A**

Desert Community Energy Board  
September 26, 2023



### **STAFF REPORT**

**Subject:** DCE Mid-term Reliability Procurement: Desert Sands Energy Storage Project

**Contact:** David Freedman, Program Manager ([dfreedman@cvag.org](mailto:dfreedman@cvag.org))

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**Recommendation:** Adopt Resolution No. 2023-05, approving a 15-year Energy Storage Agreement with Desert Sands Energy Storage II, LLC, and authorizing the Executive Director and/or Legal Counsel to make minor modifications before execution of the agreement

**Background:** As reported to the Board at the June 2023 meeting, DCE's consultant The Energy Authority (TEA) released an RFP on March 6, 2023, to satisfy DCE's long-duration storage (eight hours or more) and additional Mid-term Reliability (MTR) procurement orders under California Public Utilities Commission (CPUC) Decisions 21-06-035 from June 2021 and 23-02-040 from February 2023.

Responses to the RFP were due on April 14, 2023. An evaluation committee made up of TEA and DCE staff, their technical consultants, legal counsel, as well as a member of DCE's Community Advisory Committee (CAC) reviewed responses to the RFP in April and May 2023. Each proposal was screened for completeness and scored on a weighted criteria basis. DCE staff and TEA identified a short list of proposed transactions and conducted interviews with three bidders for four projects, including project locations in Palm Springs and eastern Riverside County, and two additional locations in Nevada.

The first contract under this RFP is now ready for Board approval. With this item, staff is recommending an Energy Storage Agreement (ESA) with Desert Sands Energy Storage II, LLC, a subsidiary of NextEra Energy Resources (NextEra). NextEra is a developer with substantial experience in developing, constructing, and operating wind, solar, and battery storage projects across North America. Together with its subsidiaries, NextEra owns and operates a total generating capacity of approximately 30,000 megawatts (MW) as of the end of 2022, including other solar PV and energy storage facilities in Riverside County.

Desert Sands is a proposed 25 MW / 200 MW hour lithium-ion battery storage facility. The facility is part of a larger, 700 MW energy complex located largely within Palm Springs' city limits that received a Conditional Use Permit from the Palm Springs Planning Commission at its meeting of June 22, 2022. Exhibits from the City staff report depicting the project's location, site plan and site photos are attached for the Board's review.

The project is located on a parcel zoned for energy-industrial uses with existing wind turbines and related energy infrastructure on it. The project is being developed in two phases: Desert Peak (Phase 1) and Desert Sands (Phase 2), which includes DCE's facility. The expected commercial operation date (COD) for DCE's portion of the project is April 1, 2027.

The project is still securing permits and transmission interconnection. The project expects to complete its interconnection agreements with Southern California Edison (SCE) in October 2023. The project will interconnect to SCE's 220 kV Devers substation located just north of Palm Springs' city limits.

The project is a prime example of how DCE can achieve its goal of reinvesting revenues locally to support the community by creating jobs and prompting development of more local renewable energy sources close to home. The entire project will be built using a project labor agreement. Desert Peak (Phase 1 of the total project complex) created 200 construction jobs and four full-time jobs. Desert Sands (Phase 2 of the total project complex) is estimated to create 100 construction jobs and two to three full-time jobs.

During the construction of Desert Peak, the project entity was required to pay \$375,000 to the City of Palm Springs in public art fees as a condition of approval of the development. These funds will be used to create an art project that is intended to celebrate the renewable energy industry and its start in the Palm Springs area, which will be located at the Palm Springs Windmill Tours adjacent to Interstate 10 and accessible to the public.

As a long-duration storage system, DCE's portion of the facility is capable of outputting 25 MW of capacity at eight hours of continuous discharge. The Desert Sands project will be the first storage resource DCE contracts towards its MTR 3 MW long-duration storage requirement. At 25 MW of MTR-eligible Net Qualifying Capacity, the project will completely satisfy DCE's long-duration storage compliance requirement. The project will also help DCE satisfy its compliance requirements under the CPUC's Resource Adequacy rules.

For Desert Sands to count towards MTR compliance it must achieve Full Capacity Deliverability Status (FCDS), which is a designation from the California Independent System Operator that assures a project can provide resource adequacy. Desert Sands has applied for FCDS but may not know the outcome of that application until as late as September 2025. Through negotiations, DCE was successful in establishing DCE's priority for this project, second only to Los Angeles-based Clean Power Alliance, a Community Choice Aggregator that signed an agreement with NextEra earlier this year for 75 MW of capacity at the Desert Sands project.

CPUC Decisions 21-06-035 and 23-02-040 set out annual procurement amounts for load-serving entities such as DCE, with a compliance tranche for long-duration storage projects required to be online no later than June 1, 2028. NextEra and one other developer offered projects that were able to meet this deadline. Relative to the other eligible project offered, the Desert Sands project was closely aligned with DCE's procurement needs for 2028, considering NextEra's experience in energy project development and operation and the Desert Sands project location largely within the Palm Springs City limits.

The ESA was negotiated by DCE's legal counsel, with continuous input from DCE staff. The redacted ESA is available for Board review and approval at the link found at the end of this staff report. Approval of the ESA will help DCE meet its MTR obligations and reduce price volatility in DCE's power portfolio, thereby providing for increased rate certainty. DCE staff continues to work with TEA and legal counsel on other agreements for projects submitted in the RFP. Potential contracts will be brought back for Board approval once the negotiation process is complete.

**Fiscal Analysis:** Under the pricing terms in the ESA, DCE will pay for the use of its portion of the Desert Sands project at a fixed-price rate per kW-month, with no escalation, for the full 15-year term of the ESA. DCE is entitled to all product attributes from the facility, including energy, ancillary services, and resource adequacy. The ESA reflects pricing that is typical in the current market for new energy storage resources and is expected to reduce the overall costs for

compliance with the CPUC MTR decisions referred to above. As the April 2027 COD approaches, the energy storage costs will be included in DCE's budget.

**Attachments:**

1. Resolution No. 2023-05
2. Vicinity map showing project location
3. Project site plan
4. Project photos
5. Link to ESA: <https://cvag.org/downloads/enviro/DCE/DCE-20230926-7Ae-Attachment.pdf>

**RESOLUTION NO. 2023-05**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF DESERT COMMUNITY ENERGY  
APPROVING A 15-YEAR ENERGY STORAGE AGREEMENT WITH  
DESERT SANDS ENERGY STORAGE II, LLC**

A. Desert Community Energy (“DCE”) is a joint powers authority established on October 30, 2017, for the purpose of implementing community choice aggregation (“CCA”) programs under Public Utilities Code Section 366.2.

B. DCE is required under California Public Utilities Commission (“CPUC”) Mid-Term Reliability procurement requirements, Decisions 21-06-035 and 23-02-040, to procure resources required to be online between 2023 and 2028 to meet electric system reliability needs. To meet State of California greenhouse gas emissions reduction targets, the CPUC requires all resources procured in satisfaction of its Mid-Term Reliability decisions to be zero-emitting, unless they otherwise qualify under renewables portfolio standard eligibility requirements.

C. DCE issued a Request for Proposals in March 2023 for projects in satisfaction of the CPUC’s Mid-Term Reliability requirements.

D. DCE has negotiated a 15-year Energy Storage Agreement with Desert Sands Energy Storage II, LLC to purchase energy on a long-term basis from a 25 megawatt / 200 megawatt hour lithium-ion battery storage facility with an expected commercial operation date of April 1, 2027.

E. Under Section 2.5.1 of the DCE Joint Powers Agreement, the DCE Board of Directors has the power to make and enter into all contracts, including, but not limited to, service agreements relating to the provision of services necessary to plan, implement, operate and administer the CCA Program and other energy programs including the acquisition of electric power supply and the provision of retail and regulatory support services.

F. DCE staff recommends the approval of the 15-year Energy Storage Agreement with Desert Sands Energy Storage II, and the Board has received information and had discussion regarding the terms of the agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF  
DESERT COMMUNITY ENERGY, AS FOLLOWS:**

Section 1. Approval of Power Purchase Agreement. The Board of Directors hereby approves the 15-year Energy Storage Agreement with Desert Sands Energy Storage II, LLC.

Section 2. Delegation to Executive Director. The Board of Directors hereby authorizes the DCE Executive Director to negotiate, finalize and execute the Energy Storage Agreement in substantially similar form with any minor modifications before execution of the agreement as approved by Legal Counsel.

Section 3. Resolution Effective Date. This resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** at a meeting of the Board of Directors of Desert Community Energy held on September 26, 2023.

ATTEST:

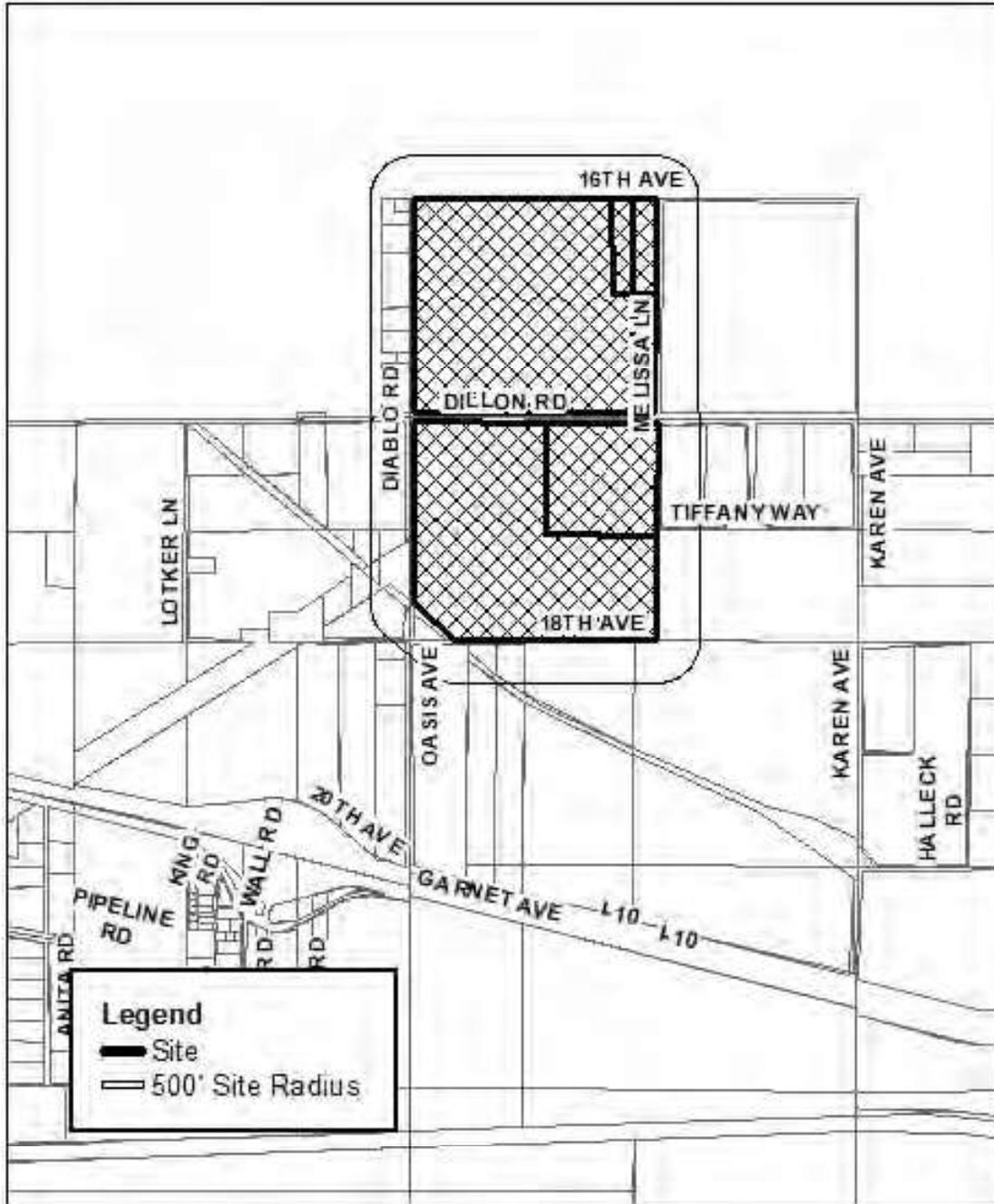
\_\_\_\_\_  
Lisa Middleton, Chair  
Desert Community Energy

\_\_\_\_\_  
Tom Kirk, Secretary  
Desert Community Energy

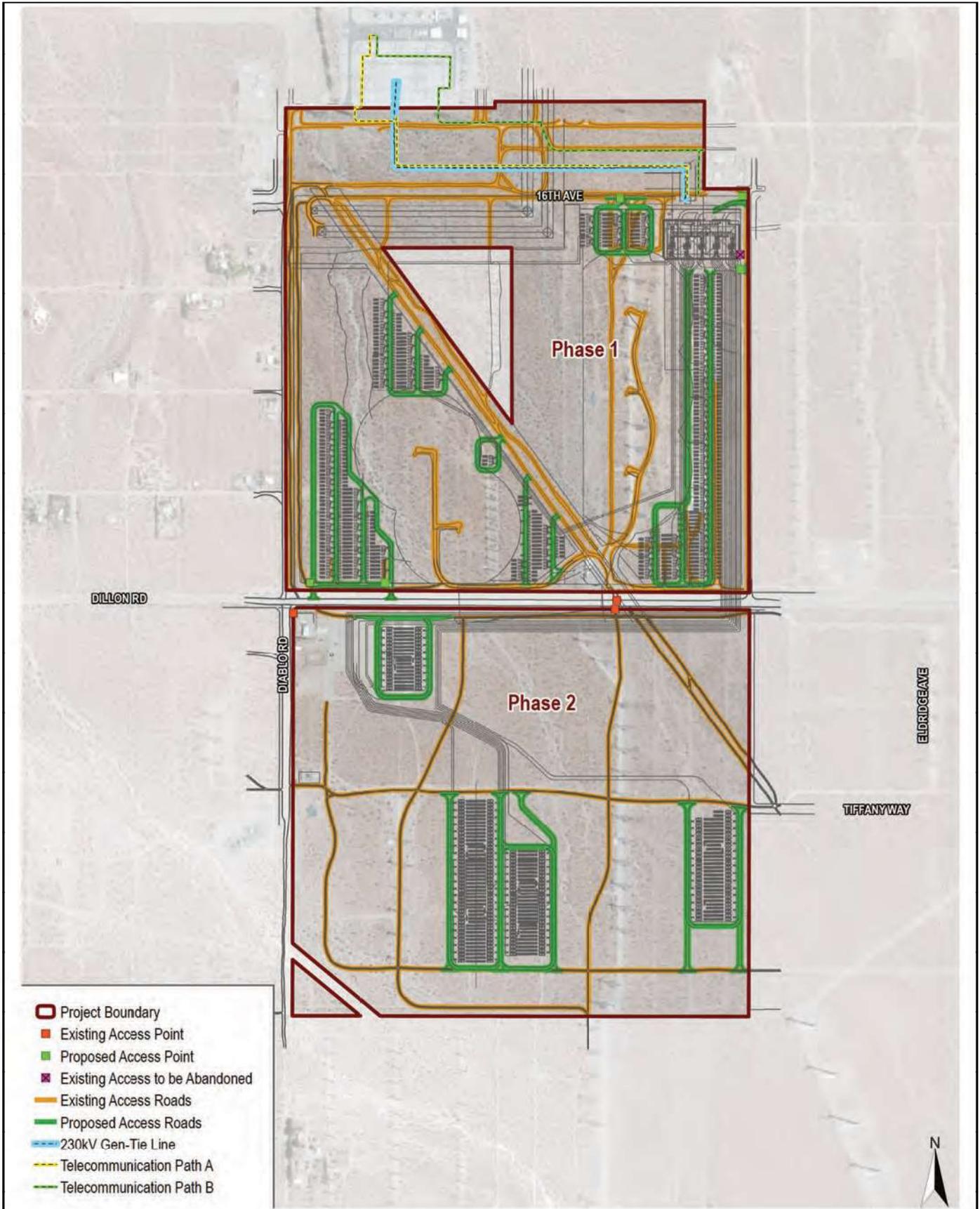
AYES: \_\_\_    NAYS: \_\_\_    ABSENT: \_\_\_    ABSTAIN: \_\_\_



# Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS  
CUP 5.1543 Desert Peak Energy Center



DILLON RD

16TH AVE

Phase 1

DIELORD

Phase 2

ELDRIDGE AVE

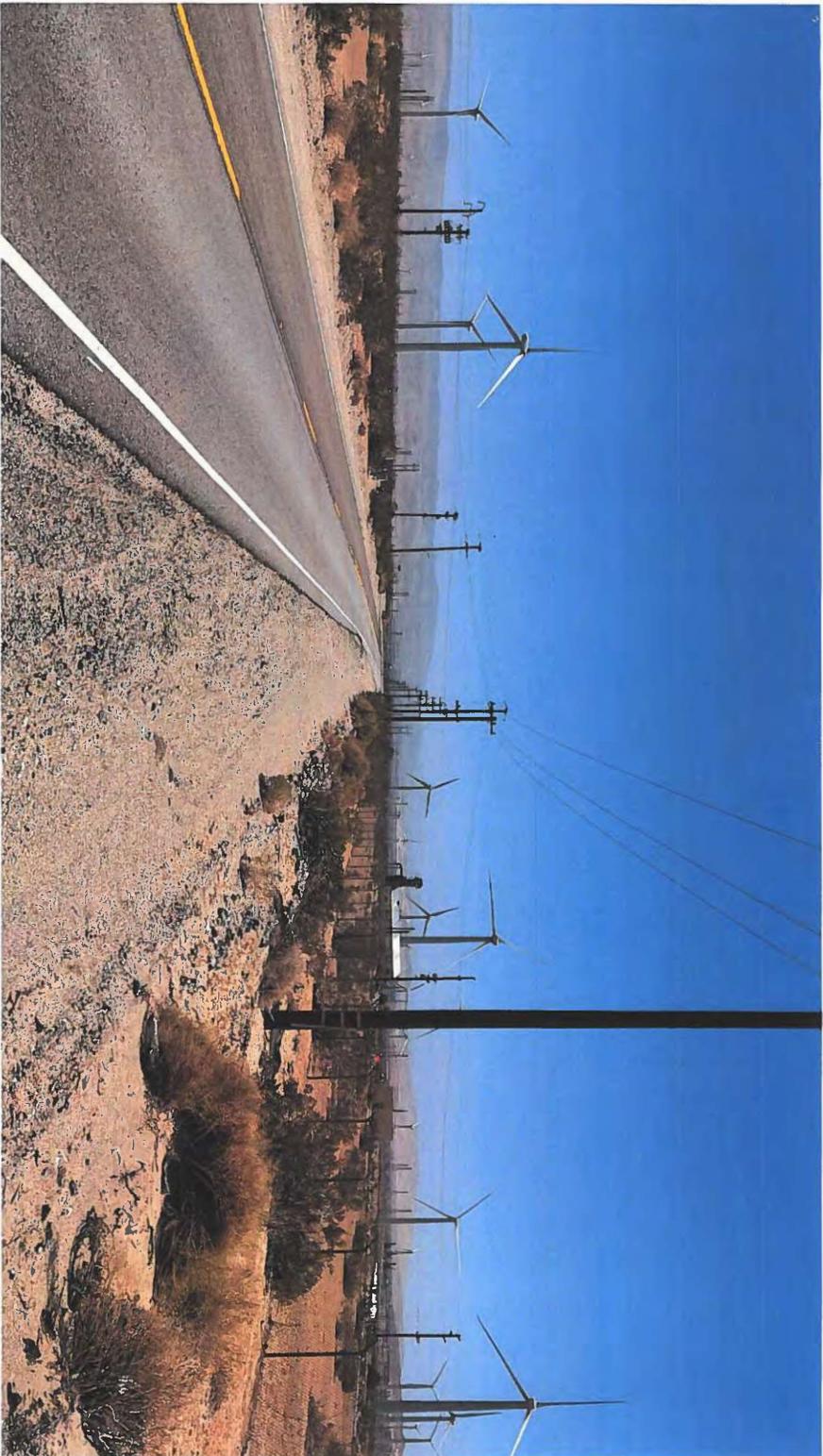
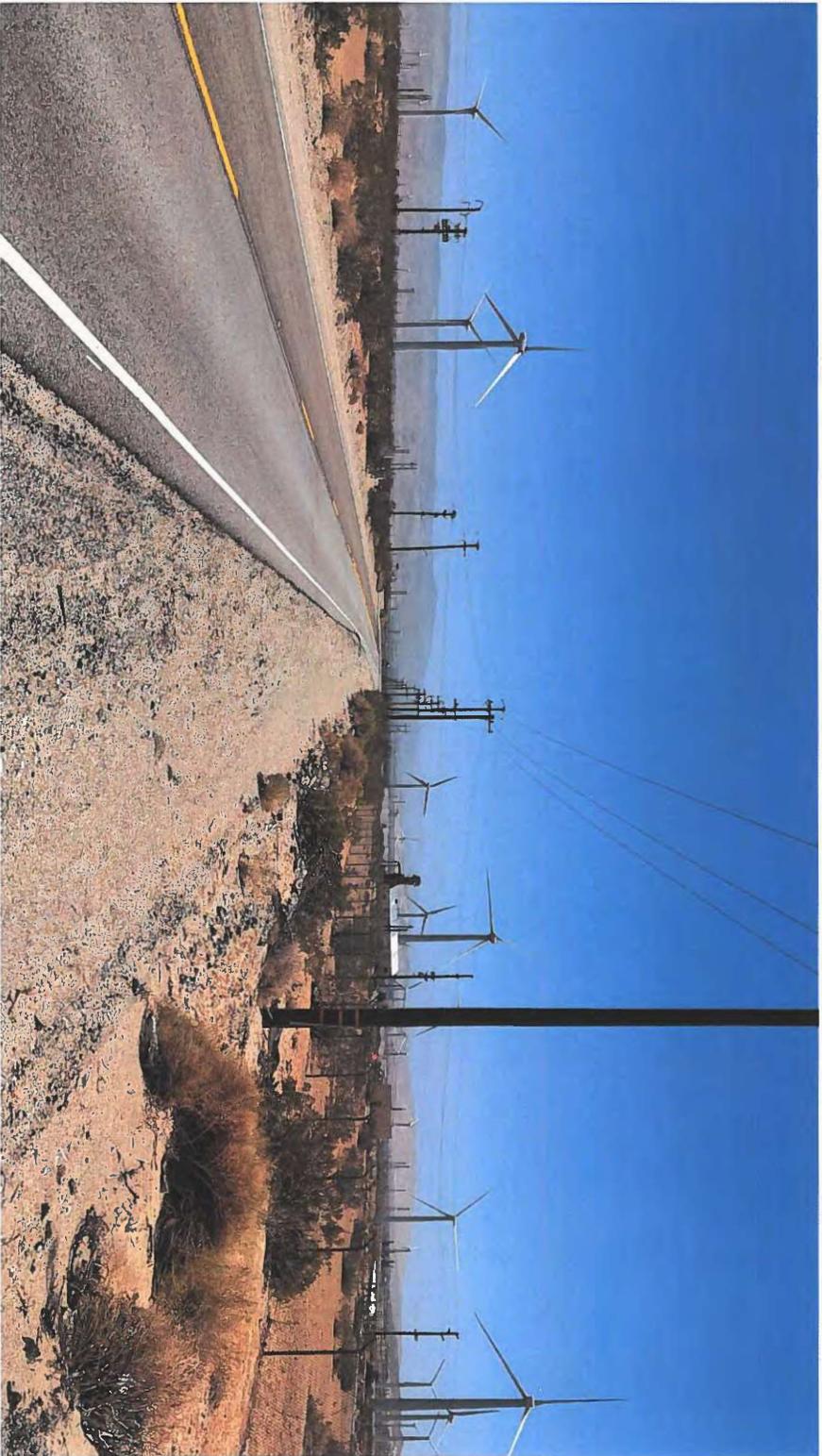
TIFFANY WAY

- Project Boundary
- Existing Access Point
- Proposed Access Point
- ✕ Existing Access to be Abandoned
- Existing Access Roads
- Proposed Access Roads
- 230kV Gen-Tie Line
- Telecommunication Path A
- Telecommunication Path B

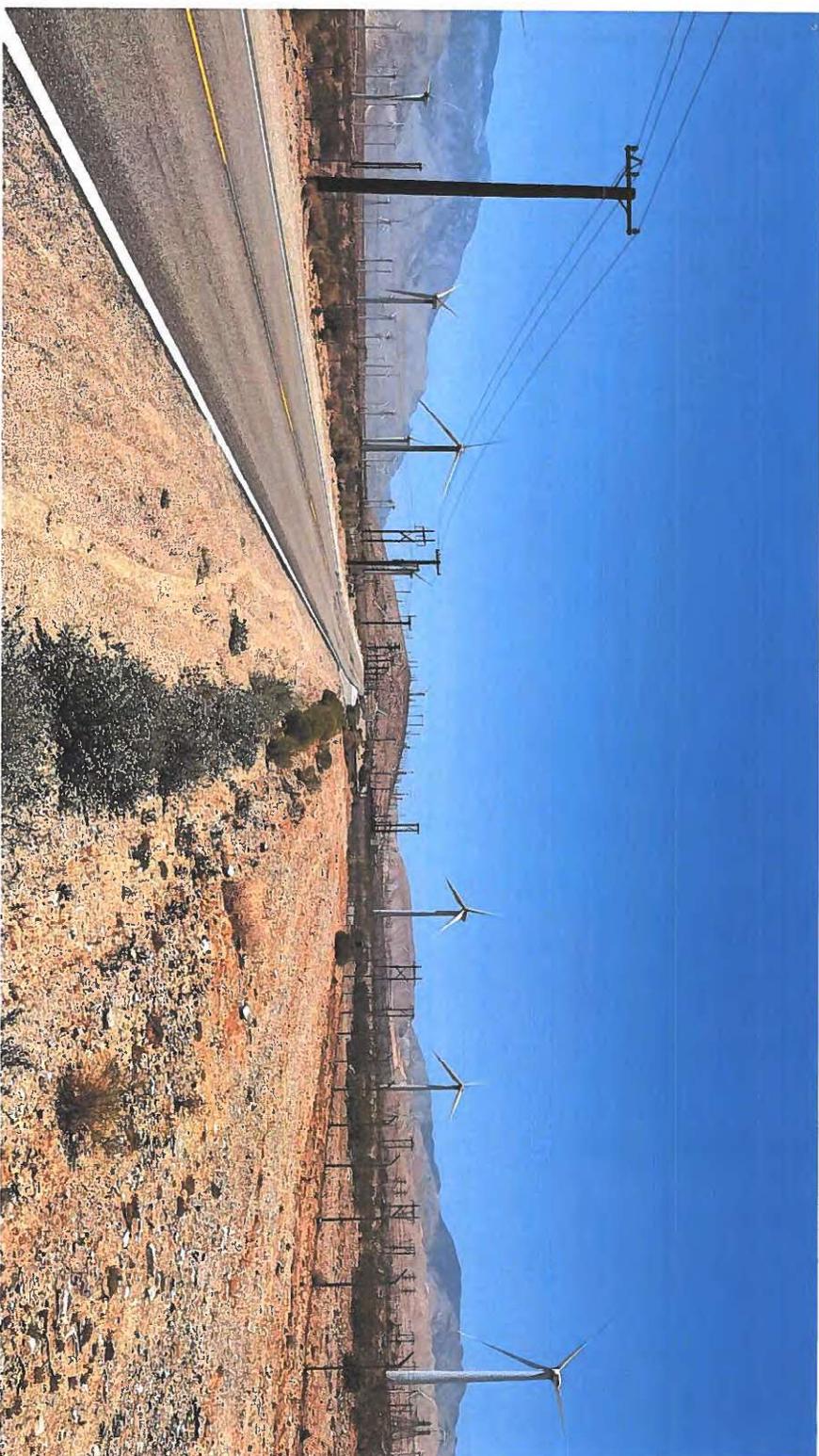
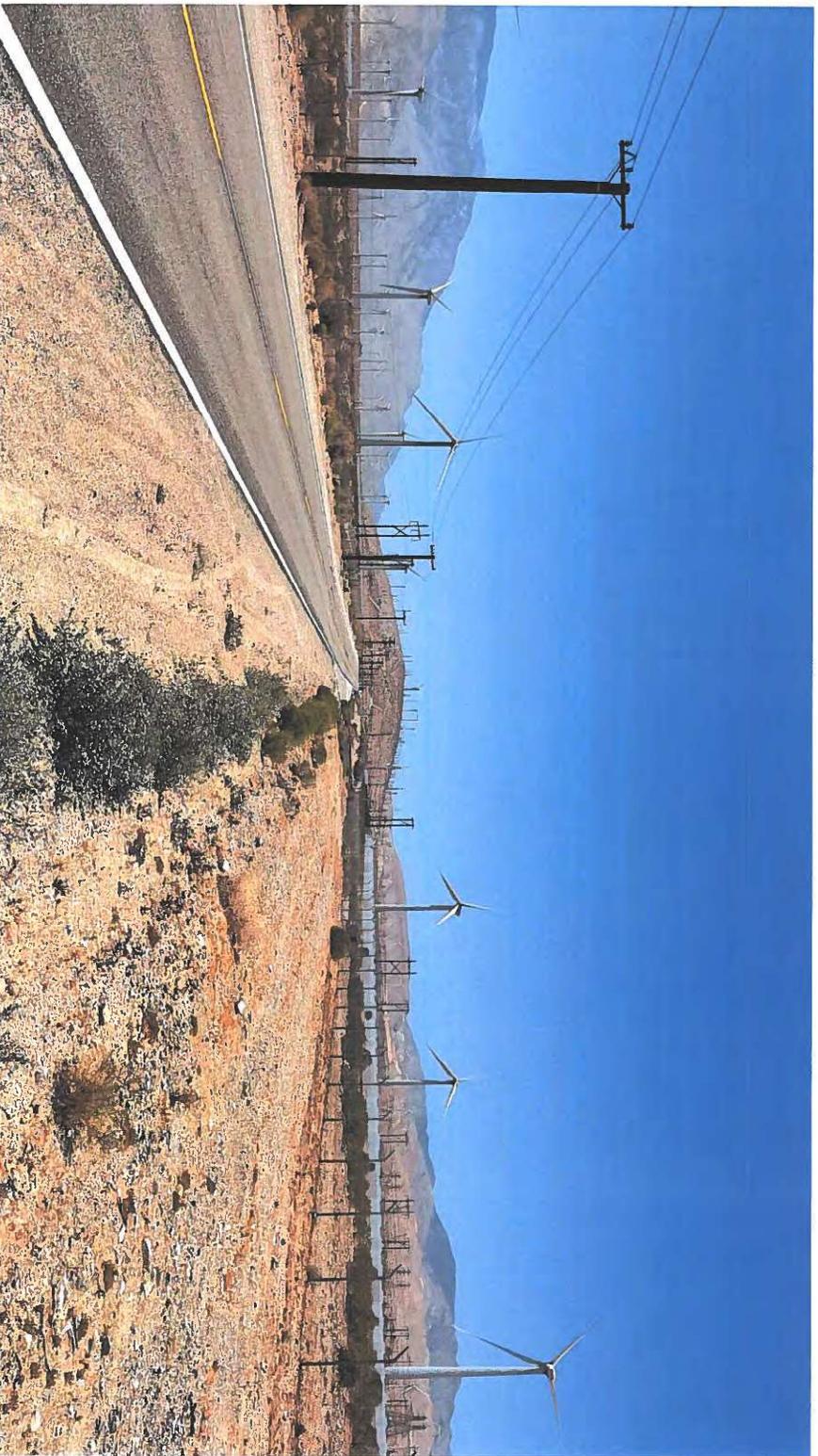


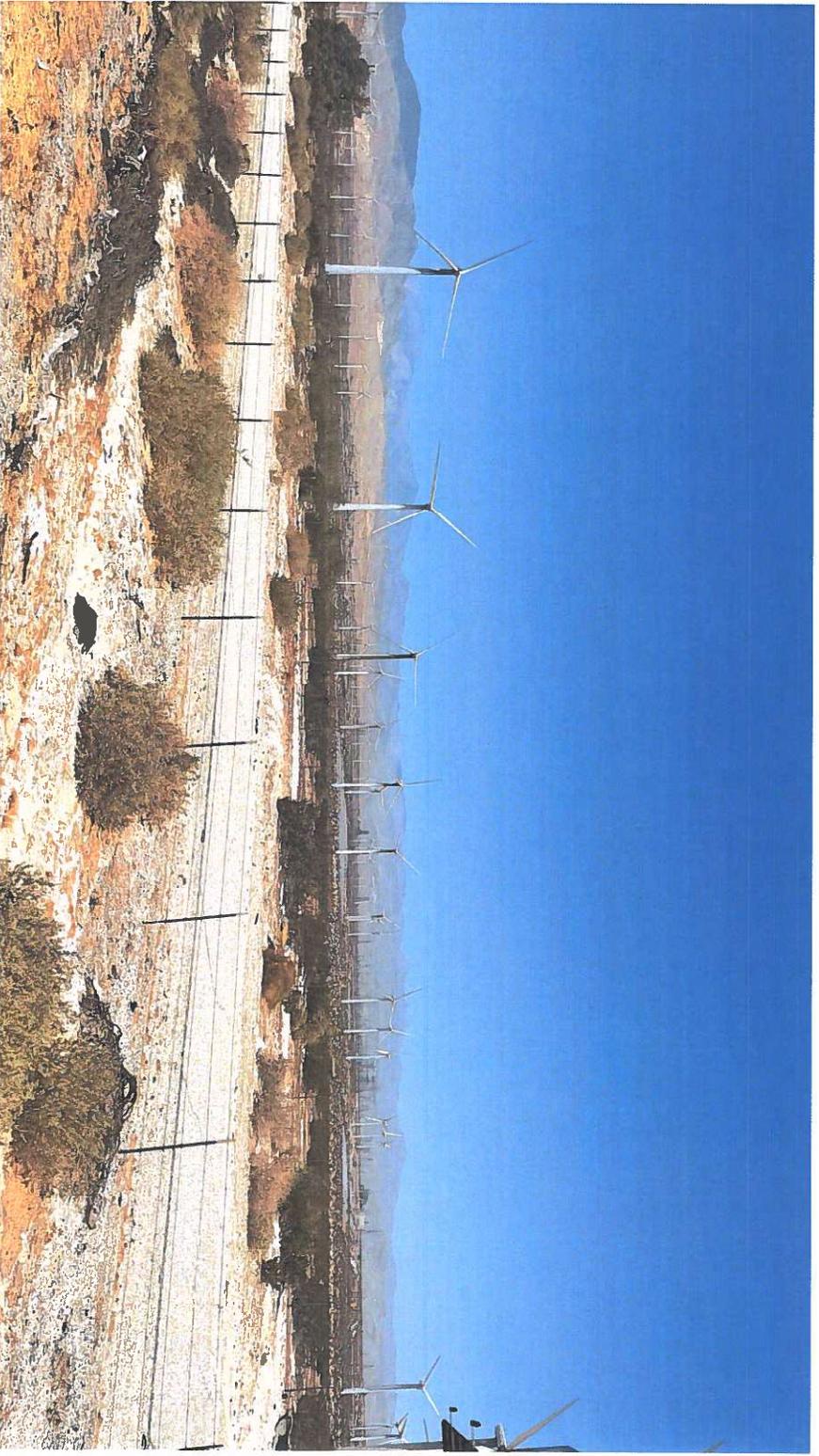
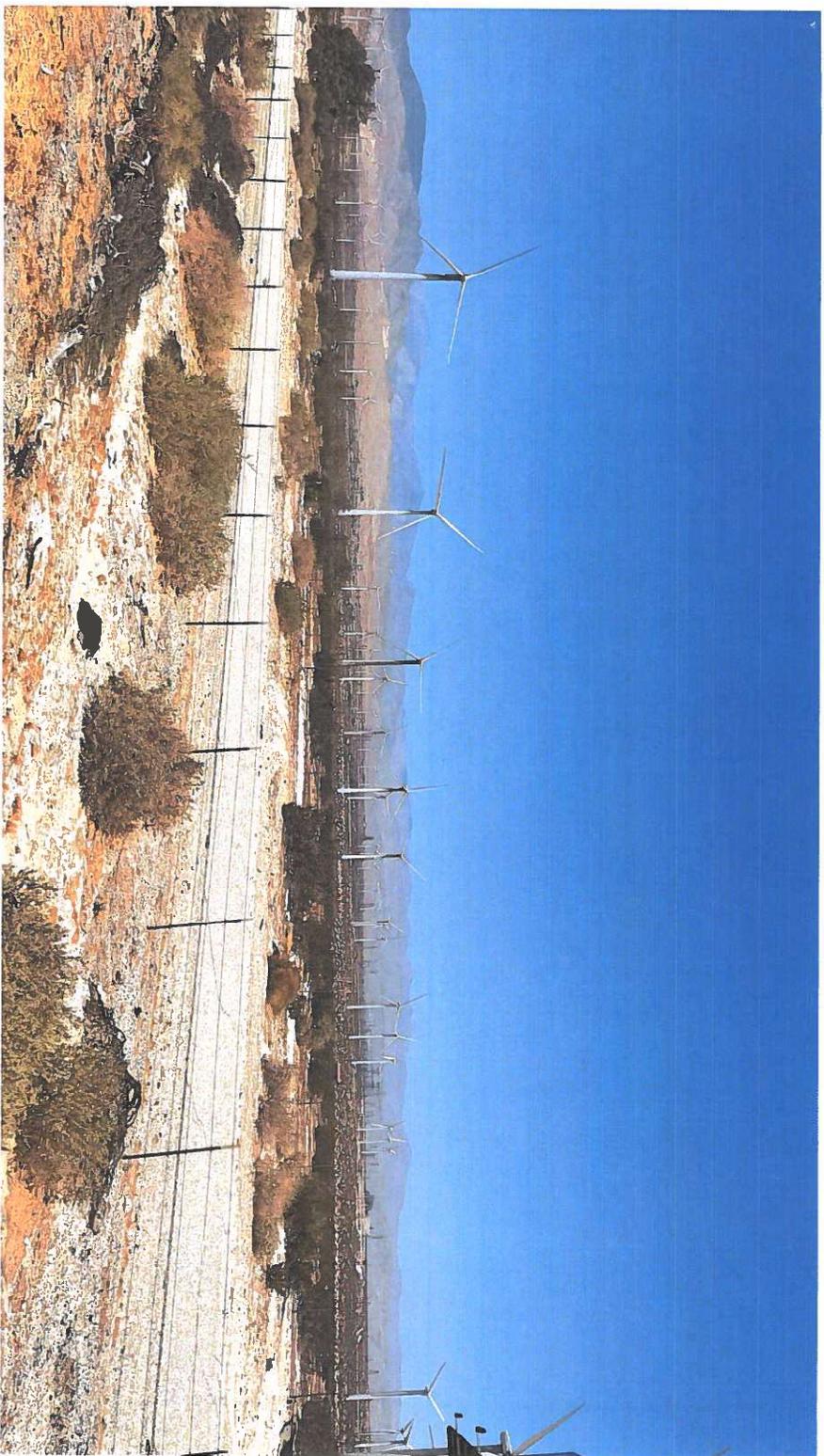
Source: Dudek, 2022

03.29.22











## **ITEM 7B**

Desert Community Energy Board  
September 26, 2023



### **STAFF REPORT**

**Subject:** Investment Policy for DCE

**Contact:** Claude T. Kilgore, Director of Finance ([ckilgore@cvag.org](mailto:ckilgore@cvag.org))

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**Recommendation: Adopt DCE Policy No. 23-03 and establish an Investment Policy**

**Background:** On June 30, 2023, DCE finished its third complete fiscal year of operations. DCE's independent audit firm, Davis Farr LLP, is now reviewing the financial statements but it is anticipated that DCE ended the fiscal year with a net position of \$19,012,202 and approximately 120 days of adjusted liquidity on hand. These results represent DCE's strong performance during the fiscal year, which equate to DCE's net position increasing by 290%.

DCE's current financial outlook has greatly improved since it launched at the onset of the global COVID-19 pandemic. At the time, DCE was faced with a state-imposed moratorium on service disconnections that resulted in considerable increases in customer delinquencies (the moratorium has since been rescinded and collections on delinquent accounts are improving). In addition, during DCE's early operational history, it experienced negative margins, primarily due to increasing power supply costs and revenue lag, which were tempered by utilizing credit arrangements with River City Bank as guaranteed by the City of Palm Springs, and invoicing support from The Energy Authority (TEA).

DCE's current financial position demonstrates its ability to meet its short-term obligations and places DCE on track to align with DCE Policy 19-09 (the Financial Reserves Policy) by end of the current fiscal year on June 30, 2024. This further adds to DCE's financial health and stability and reaching an important benchmark for its journey to attain an investment quality credit rating. While holding a mindset of prudence, it is crucial to note that DCE's current financial position was not achieved overnight.

DCE's investments consist of liquid cash bank deposits in investment, operating, and savings accounts at River City Bank (RCB) as authorized by the Board. DCE actively monitors RCB's compliance with its obligations under its Public Funds Contract with DCE, including collateral requirements of 105-110% of RCB's obligations to DCE's deposits. While bank deposits are a fine investment option and will continue to be used, DCE staff is recommending the DCE Board now establish an investment policy in line with industry standards and allow opportunities for other investment types in line with the concepts of safety, liquidity, and then yield. A robust and prudently implemented investment policy in line with California Government Code and industry best practices will aide DCE in achieving and maintaining its Board directed financial reserve goals, aiding in its solvency, all the while placing investment safety as DCE staff's top priority.

The proposed Investment Policy is in line with that of other Community Choice Aggregators (CCAs) and within the local agency investment guidelines established by the Treasurer of the State of California which can be further reviewed here: [Local Agency Investment Guideline](#). If adopted, it will

require staff to provide status reports to the Board on at least a quarterly basis. The policy would also be reviewed annually for any potential updates.

**Fiscal Analysis:** There is no upfront cost to the Investment Policy.

**Attachment:** DCE Policy No. 23-03 Investment Policy



## Policy No. 23-03 Investment Policy

**Purpose:** This Investment Policy (Policy) establishes guidelines for the management of cash, deposits, and investments (together, “Funds”) at Desert Community Energy (DCE).

It is the policy of DCE to invest public funds in accordance with the requirements of State law to achieve a market rate of return while minimizing the potential for losses, to meet daily cash flow needs of DCE and to comply with all laws of the State of California regarding the investment of public funds. The ultimate goal is to enhance DCE’s financial condition while protecting its financial assets.

This investment policy is intended to provide guidelines for the prudent investment of DCE’s temporarily idle cash and to identify DCE’s policies regarding the investment process. Investments of public funds shall be made in accordance with the following policy.

### I. Investment Objectives

When managing Funds, DCE’s primary objectives, in the following order of importance, shall be to (1) safeguard the principal of the Funds, (2) meet the liquidity needs of DCE, and (3) achieve a return on investment on Funds in DCE’s control.

**A. Safety:** Safety of principal is the foremost objective of cash and investment management activities. The investment of Funds shall be undertaken in a manner that seeks to ensure the preservation of principal. It is recognized, however, that in a diversified portfolio, occasional measured losses are inevitable, and must be considered within the context of overall investment return. Principal shall be preserved by mitigating:

1. **Credit Risk**, the risk of loss due to the failure of the issuer of the security, shall be mitigated by investing in only the highest quality securities; by diversifying investments; and by pre-qualifying securities brokers and public depositories; **and**
2. **Market Risk**, the risk of loss due to a decline in bond prices because of rising market interest rates, shall be mitigated by structuring the portfolios so that issues mature concurrently with the City’s anticipated cash requirements, thereby eliminating the need to sell securities prematurely on the open market.

**B. Liquidity:** The Funds of DCE shall remain sufficiently liquid to meet all operating needs that may be reasonably anticipated. Since all possible cash demands cannot be anticipated, the investment of Funds should consist largely of relatively low-duration securities with active secondary markets. Deposits or instruments that are available on demand or securities that mature in less than one year are recommended.

**C. Return on Investment:** The deposit and investment portfolio shall be designed with the objective of attaining a market rate of return throughout the economic cycle while considering risk and liquidity constraints. The return on deposits and investments is of secondary importance compared to the safety and liquidity objectives described in I.A.

and I.B., above.

## II. Standard of Care

DCE will manage Funds in accordance with the Prudent Investor Standard pursuant to California Government Code Section 53600.3<sup>1</sup>:

“[G]overning bodies of local agencies or persons authorized to make investment decisions on behalf of those local agencies investing public funds are trustees and therefore fiduciaries subject to the prudent investor standard. When investing, reinvesting, purchasing, acquiring, exchanging, selling or managing public funds, a trustee shall act with care, skill, prudence and diligence under the circumstances then prevailing, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of this section and considering individual investments as part of an overall strategy, investments may be acquired as authorized by law.”

Pursuant to Section 53607, the DCE Board hereby delegates responsibility to manage Funds to DCE’s Executive Director or their Designee.

## III. Acceptable and Prohibited Investment Types

A. The following types of investments are permitted:

Type of Investment	% of Portfolio Authorized	Additional Approvals
<b>United States Treasury</b> bills, notes, bonds, or certificates of indebtedness, or those for which the full faith and credit of the United States are pledged for the payment of principal and interest.	0-100%	Maximum maturity: 5 Years
<b>Federal Agency</b> or United States government- sponsored enterprise ("GSE") obligations, participations, or other instruments, including those that Federal Agencies or GSEs have either issued or fully guaranteed as to principal and interest.	0-100%	Maximum maturity: 5 years  No more than 30% of the portfolio may be invested in any single issuer.
<b>Local Government Investment Pools</b> , such as CAMP or California county investment pools.	0-75%	N/A
<b>State of California Local Agency Investment Fund</b> ("LAIF") that the State Treasurer's Office manages.	Up to LAIF Maximum (\$75,000,000 per account)	N/A
<b>California State and Local Agency</b> debt obligations that a state or local agency, or a department, board, agency, or authority of a state or local agency has issued as general obligation bonds or revenue bonds.	0-25%	Maximum maturity: 5 Years  Rated "A" or higher by S&P or by Moody's.
<b>Commercial Paper</b> ("CP") (Non-Pooled Fund) that general corporations organized and operating in the United States with assets exceeding \$500 million issue.	0-25%	Maximum maturity: 270 days Rated "A-1" by S&P or "P-1" by Moody's. No more than 10% of the portfolio may be invested in the CP and MTNs of a single issuer. Asset-backed CP is ineligible for purchase.

<b>Negotiable Certificates of Deposit ("NCO")</b> that a nationally- or state-chartered bank, a savings association, a federal association, or a state-licensed branch of a foreign bank issue. <b>Time Certificates of Deposit ("TCD")</b> that qualified public depositories issue.	0-25%	Maximum maturity: 5 Years
<b>Medium-Term Notes ("MTNs")</b> that corporations organized and operating in the United States, or depository institutions operating in the United States and licensed by the United States or by any state, issue.	0-25%	Maximum maturity: 5 years Rated "A" or higher by S&P <i>or</i> by Moody's. No more than 10% of the portfolio may be invested in the CP and MTNs of any single issuer.
<b>Money Market Mutual Funds ("MMF")</b> that are registered with the SEC under the Investment Act of 1940.	0-20%	<b>Either</b> rated "AAA" by S&P, "Aaa" by Moody's, or "AAA-V-1+" by Fitch (2 of 3), <b>or</b> retains an investment advisor registered or exempt from registration with SEC, with at least 5 years of experience managing a MMF with \$500 million or more in assets.
<b>Repurchase Agreement ("RP")</b> that authorized brokers sell.	0-10%	Maximum maturity: 30 Days Collateral must be United States Treasury, Federal, Agency, or GSE obligations. Zero coupon and stripped coupon instruments are not acceptable as collateral. Collateral must be valued at 102% of cost and adjusted weekly. DCE must have first lien and security interest in all collateral. DCE's custodian must hold collateral. An authorized broker must file a Public Securities Association ("PSA") Master Repurchase Agreement with DCE, and DCE's attorney must review the agreement, prior to the transaction of RP business with that broker. Reverse Repurchase Agreements are specifically not authorized under this investment policy.
<b>Structured Notes</b> in the form of callable securities or "STRIPS" that the United States Treasury, Federal Agencies, or government-sponsored enterprises ("GSEs") issue.	0-20%	Maximum maturity: 5 Years

## B. Prohibited Investment Types

The purchase of inverse floaters, range notes, mortgage-derived, interest-only strips, and securities that result in zero-interest accrual if held to maturity are prohibited (Ca/. Govt. Code, section 53601.6). These prohibited investments include, but are not limited to, inverse floaters, range notes, or mortgage-derived interest-only strips. The purchase of asset-backed securities, bond mutual funds, mortgage-backed securities, reverse-repurchase agreements, and derivative contracts (forwards, futures, options, and swaps) are also prohibited.

Active investment strategies, such as market timing, sector rotation, or benchmark indexing are prohibited. Securities lending, short selling, and other hedging strategies are also prohibited.

Local government investment pools and market mutual funds will be exempt from the

prohibitions on derivative contracts, derivative securities, reverse repurchase agreements, securities lending, short selling, and other hedging strategies.

#### **IV. Portfolio Rebalancing**

If portfolio percentage constraints are violated due to a temporary imbalance in the portfolio, securities should be held to maturity in order to avoid capital losses; however, if no capital loss would be realized upon the sale, the expected length of time that the portfolio will be imbalanced shall be evaluated and presented to the DCE Board. Portfolio limits are in place to ensure diversification of the portfolio; a small, temporary imbalance will likely not impair the purpose of this policy.

#### **V. Bids and Purchase of Securities**

Prior to the purchase of an investment pursuant to this Policy the persons authorized to make investments shall assess the market and market prices using information obtained from available sources including investment services, broker or dealers, and the media. A competitive bid process, when practical, will be used to place all investment purchases and sales transactions. Any competitive bid process used pursuant to this Policy shall be exempt from DCE's Procurement Policy.

#### **VI. Brokers**

Broker/dealers shall be selected by the Executive Director or their Designee. Selection of broker/dealers shall be based upon the following criteria: the reputation and financial strength of the company or financial institution, the reputation and expertise of the individuals employed, and pursuant to the requirements of Section 53601.5. The Executive Director or their Designee shall require any selected broker, brokerage firm, dealer, or securities firm to affirm that it has not, within any 48-consecutive month period, made a political contribution to any member of the DCE Board, or any candidate who may join the DCE Board in an amount exceeding the limitations contained in Rule G-37 of the Municipal Securities Rulemaking Board, the Political Reform Act, including section 84308, or any applicable DCE Policy, as amended from time to time. The selected broker or dealers shall be provided with and acknowledge receipt of this Policy, the Vendor Communication Policy, and the Campaign Contribution Disclosure Form.

#### **VII. Losses**

Losses are acceptable on a sale before maturity and may be taken if required to meet the liquidity needs of DCE or if the reinvestment proceeds will earn an income flow with a present value higher than the present value of the income flow that would have been generated by the original investment, considering any investment loss or foregoing interest on the original investment.

#### **VIII. Delivery and Safekeeping**

The delivery and safekeeping of all securities shall be made through a third-party custodian when practical and cost effective as determined by the Executive Director or their Designee and in accordance with Section 53608.

#### **IX. Conflict of Interest**

DCE staff shall comply with state law and applicable DCE policies regarding conflicts of interest.

## **X. Audits**

DCE's Funds shall be subject to a process of independent review by its external auditors. DCE's external auditors shall review the investment portfolio in connection with DCE's annual audit for compliance with the Policy pursuant to Section 27134. The results of the audit shall be reported to the DCE Board.

## **XI. Reporting**

**A. Quarterly:** Under provisions of the California Government Code Section 53646, there shall be a report, at least quarterly, to the DCE Board on the status of all DCE investments. This quarterly report will include the following information: Amount on Deposit, Market Value, Source for Market Values, Yield (rate of interest), Type of Investment and Institution. IF applicable, it shall also list individual securities by investment type, issuer, credit risk rating, CUSIP number, settlement date of purchase, date of maturity, par value and dollar amount invested on all securities, the market value and source of the market value information. In addition, quarterly report shall:

1. State compliance of the portfolio to DCE's investment policy or manner in which the portfolio is not in compliance; and
2. Include a statement denoting the ability of DCE to meet its expenditure requirements for the next six months or provide an explanation as to why sufficient money shall, or may, not be available.

**B. Annual Review:** This Policy will be reviewed annually by the Executive Director or their Designee. This policy will be updated, as needed, and will remain in effect until a new policy is adopted, at least once every five years.

## **ITEM 7C**

Desert Community Energy Board  
September 26, 2023



### **STAFF REPORT**

**Subject:** Presentation: DCE Financial Outlook

**Contact:** Jaclyn Harr, The Energy Authority ([jharr@teainc.org](mailto:jharr@teainc.org))

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#### **Recommendation: Information**

**Background:** DCE staff and consultants regularly provide financial updates to the Board. At the September meeting, representatives of The Energy Authority (TEA) will present an update on the current market conditions. Additional updates and a preview of the financial outlook for DCE in 2024 will be provided at the November DCE Board meeting.

At the Board's request, a copy of the slides is being provided with this staff report.

**Fiscal Analysis:** There is no cost to DCE to provide this update.

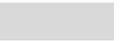
#### **Attachment:**

<https://cvag.org/downloads/enviro/DCE/DCE-20230926-7C-Attachment.pdf>

**ITEM 8A**

**DESERT COMMUNITY ENERGY BOARD  
FY2022-2023 ATTENDANCE RECORD**

<b>Voting Members</b>	<b>JUL*</b>	<b>AUG</b>	<b>SEP</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>	<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APR</b>	<b>MAY</b>	<b>JUNE</b>
City of Palm Desert	✓	*	✓	✓	✓	*	*	✓	*	✓	✓	✓
City of Palm Springs	✓	*	✓	✓	✓	*	*	✓	*	✓	✓	✓

Absent   
No Meeting \*

\* July was a special meeting. The regular July meeting was cancelled.

**Desert Community Energy**  
**Unaudited Statement of Net Position Prev Year Comparison**  
As of June 30, 2023

	<u>Jun 30, 23</u>	<u>Jun 30, 22</u>	<u>\$ Change</u>	<u>% Change</u>
<b>ASSETS</b>				
<b>Current Assets</b>				
<b>Checking/Savings</b>				
<b>1100 · Unrestricted Funds</b>				
1105 · Operating Account -8099	198,209	413,441	(215,232)	(52%)
1109 · DDM Marketplace Sweep - 0991	4,475,194	1,487,451	2,987,743	201%
1115 · Lockbox -4446	3,727,036	1,761	3,725,275	211,543%
<b>Total 1100 · Unrestricted Funds</b>	<u>8,400,439</u>	<u>1,902,653</u>	<u>6,497,786</u>	<u>342%</u>
<b>1199 · Restricted Funds</b>				
1110 · Money Market -5470	405,416	1,748,282	(1,342,866)	(77%)
1120 · FSR Letter of Credit Collateral	147,000	147,000	-	0%
<b>Total 1199 · Restricted Funds</b>	<u>552,416</u>	<u>1,895,282</u>	<u>(1,342,866)</u>	<u>(71%)</u>
<b>Total Checking/Savings</b>	<u>8,952,855</u>	<u>3,797,935</u>	<u>5,154,920</u>	<u>136%</u>
<b>Accounts Receivable</b>				
1221 · Accounts Receivable	12,826,255	9,489,377	3,336,878	35%
1223 · Accrued Accounts Receivable	2,408,310	2,552,841	(144,531)	(6%)
<b>Total Accounts Receivable</b>	<u>15,234,565</u>	<u>12,042,218</u>	<u>3,192,347</u>	<u>27%</u>
<b>Other Current Assets</b>				
1225 · Allowance for Doubtful Accounts	(3,120,181)	(1,801,442)	(1,318,739)	(73%)
1240 · Prepaid Expenses	110,592	132,015	(21,423)	(16%)
<b>Total Other Current Assets</b>	<u>(3,009,589)</u>	<u>(1,669,427)</u>	<u>(1,340,162)</u>	<u>(80%)</u>
<b>Total Current Assets</b>	<u>21,177,831</u>	<u>14,170,726</u>	<u>7,007,105</u>	<u>49%</u>
<b>Other Assets</b>				
1170 · Deposits/Bonds	310,584	-	310,584	100%
<b>Total Other Assets</b>	<u>310,584</u>	<u>-</u>	<u>310,584</u>	<u>100%</u>
<b>TOTAL ASSETS</b>	<u><u>21,488,415</u></u>	<u><u>14,170,726</u></u>	<u><u>7,317,689</u></u>	<u><u>52%</u></u>
<b>LIABILITIES &amp; EQUITY</b>				
<b>Liabilities</b>				
<b>Current Liabilities</b>				
<b>Accounts Payable</b>				
2110 · Accounts Payable	1,069,406	4,546,368	(3,476,962)	(76%)
2112 · Accrued Accounts Payable	371,244	-	371,244	100%
2120 · Due to Other Governments	491,743	635,578	(143,835)	(23%)
<b>Total Accounts Payable</b>	<u>1,932,393</u>	<u>5,181,946</u>	<u>(3,249,553)</u>	<u>(63%)</u>
<b>Other Current Liabilities</b>				
2115 · NEM Escrow Account	17,138	115,898	(98,760)	(85%)
2230 · Taxes payable	121,683	121,493	190	0%
2260 · Vendor Security Deposits	405,000	1,680,000	(1,275,000)	(76%)
<b>Total Other Current Liabilities</b>	<u>543,821</u>	<u>1,917,391</u>	<u>(1,373,570)</u>	<u>(72%)</u>
<b>Total Current Liabilities</b>	<u>2,476,214</u>	<u>7,099,337</u>	<u>(4,623,123)</u>	<u>(65%)</u>
<b>Long Term Liabilities</b>				
2300 · Non-current Liability	-	2,200,000	(2,200,000)	(100%)
<b>Total Long Term Liabilities</b>	<u>-</u>	<u>2,200,000</u>	<u>(2,200,000)</u>	<u>(100%)</u>
<b>Total Liabilities</b>	<u>2,476,214</u>	<u>9,299,337</u>	<u>(6,823,123)</u>	<u>(73%)</u>
<b>Net Position</b>				
31000 · Restricted Net Position	147,000	147,000	-	0%
32000 · Unrestricted Net Position	4,724,389	5,127,861	(403,472)	(8%)
<b>Net Income</b>	<u>14,140,813</u>	<u>(403,472)</u>	<u>14,544,285</u>	<u>3,605%</u>
<b>Total Net Position</b>	<u>19,012,202</u>	<u>4,871,389</u>	<u>14,140,813</u>	<u>290%</u>
<b>TOTAL LIABILITIES &amp; NET POSITION</b>	<u><u>21,488,416</u></u>	<u><u>14,170,726</u></u>	<u><u>7,317,690</u></u>	<u><u>52%</u></u>

**Desert Community Energy**  
**Unaudited Changes to Net Position Prev Year Comparison**  
July 2022 through June 2023

	<u>Jul '22 - Jun 23</u>	<u>Jul '21 - Jun 22</u>	<u>\$ Change</u>	<u>% Change</u>
<b>Revenue</b>				
5010 · Electricity Sales				
5011 · Carbon Free	48,711,302	37,283,544	11,427,758	31%
5012 · Carbon Free- CARE / FERA	(282)	1,728,615	(1,728,897) <sup>1</sup>	(100%)
5013 · Desert Saver	10,494,033	5,180,213	5,313,820	103%
<b>Total 5010 · Electricity Sales</b>	<u>59,205,053</u>	<u>44,192,372</u>	<u>15,012,681</u>	<u>34%</u>
5100 · Other Revenue				
5120 · Energy Market Settlements	1,346,040	1,354,851	(8,811)	(1%)
5125 · Resouce Adequacy	328	-	328	100%
5140 · Delay Damages PPAs	3,750,000	-	3,750,000 <sup>2</sup>	100%
5150 · Other Revenue	460,346	609,655	(149,309)	(24%)
<b>Total 5100 · Other Revenue</b>	<u>5,556,714</u>	<u>1,964,506</u>	<u>3,592,208</u>	<u>183%</u>
5900 · Investment Revenue	30,179	4,104	26,075	635%
<b>Total Revenue</b>	<u>64,791,946</u>	<u>46,160,982</u>	<u>18,630,964</u>	<u>40%</u>
<b>Expense</b>				
4100 · Cost of Electricity				
4105 · Electricity Purchase	30,135,025	26,854,314	3,280,711	12%
4110 · Resource Adequacy Settlement	9,811,110	7,224,061	2,587,049	36%
4115 · Low Carbon Settlement	375,000	2,381,000	(2,006,000) <sup>3</sup>	(84%)
4120 · Renewable Energy Cr. Settlement	134,106	1,354,095	(1,219,989)	(90%)
4125 · Market Charges	5,494,226	4,591,524	902,702	20%
<b>Total 4100 · Cost of Electricity</b>	<u>45,949,467</u>	<u>42,404,994</u>	<u>3,544,473</u>	<u>8%</u>
4200 · Accounting / Bank Services	24,723	31,745	(7,022)	(22%)
4353 · Insurance	8,840	7,793	1,047	13%
4423 · Office Supplies	1,200	-	1,200	100%
4425 · Legal Services	100,937	93,115	7,822	8%
4431 · Professional Services	175,687	63,320	112,367	177%
4432 · Consultants	2,385,690	2,309,599	76,091	3%
4433 · Outreach Services	49,652	46,199	3,453	7%
4435 · Technology Costs (IT)	4,315	2,213	2,102	95%
4440 · Postage	14,737	18,401	(3,664)	(20%)
4441 · Printing	17,318	20,634	(3,316)	(16%)
4450 · Sponsorships	1,603	-	1,603	100%
4452 · Marketing	8,355	-	8,355	100%
4455 · Customer Programs	-	32,215	(32,215)	(100%)
4500 · Registrations/Memberships	85,671	84,620	1,051	1%
4610 · Interest Expense	46,655	123,816	(77,161)	(62%)
4750 · Bad Debt Expense	1,776,285	1,325,790	450,495	34%
<b>Total Expense</b>	<u>50,651,135</u>	<u>46,564,454</u>	<u>4,086,681</u>	<u>9%</u>
<b>Excess of Revenue over Expenses</b>	<u>14,140,811</u>	<u>(403,472)</u>	<u>14,544,283</u>	<u>3,605%</u>

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2  
3

CARE/FERA was discontinued and converted to Desert Saver.

Development Security received at termination of a renewable power purchase agreement.

Year-ahead purchases of low carbon energy have been less available in current year.

**Desert Community Energy**  
**Unaudited Changes in Net Position Budget vs. Actual**  
July 2022 through June 2023

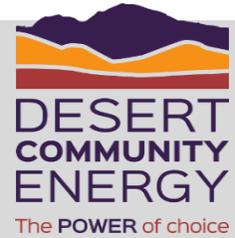
	Jul '22 - Jun 23 Actual	Jul '22 - Jun 23 Budget	\$ Over Budget	% of Budget
<b>Revenue</b>				
5010 · Electricity Sales				
5011 · Carbon Free	48,711,302	58,784,353	(10,073,051)	83%
5012 · Carbon Free- CARE / FERA	(282)	-	(282)	100%
5013 · Desert Saver	10,494,033	7,805,655	2,688,378	134%
<b>Total 5010 · Electricity Sales</b>	<b>59,205,053</b>	<b>66,590,008</b>	<b>(7,384,955)</b>	<b>89%</b>
5100 · Other Revenue				
5120 · Energy Market Settlements	1,346,040	-	1,346,040	100%
5125 · Resouce Adequacy	328	-	328	100%
5140 · Delay Damages PPAs	3,750,000	-	3,750,000	100%
5150 · Other Revenue	460,346	500,000	(39,654)	92%
<b>Total 5100 · Other Revenue</b>	<b>5,556,714</b>	<b>500,000</b>	<b>5,056,714</b>	<b>1,111%</b>
5900 · Investment Revenue	30,179	7,200	22,979	419%
<b>Total Revenue</b>	<b>64,791,946</b>	<b>67,097,208</b>	<b>(2,305,262)</b>	<b>97%</b>
<b>Expense</b>				
4100 · Cost of Electricity				
4105 · Electricity Purchase	30,135,025	28,356,903	1,778,122	106%
4110 · Resource Adequacy Settlement	9,811,110	7,606,460	2,204,650	129%
4115 · Low Carbon Settlement	375,000	2,507,036	(2,132,036)	15%
4120 · Renewable Energy Cr. Settlement	134,106	1,425,773	(1,291,667)	9%
4125 · Market Charges	5,494,226	4,834,572	659,654	114%
<b>Total 4100 · Cost of Electricity</b>	<b>45,949,467</b>	<b>44,730,744</b>	<b>1,218,723</b>	<b>103%</b>
4200 · Accounting / Bank Services	24,723	40,813	(16,090)	61%
4353 · Insurance	8,840	10,053	(1,213)	88%
4423 · Office Supplies	1,200	-	1,200	100%
4425 · Legal Services	100,937	88,566	12,371	114%
4431 · Professional Services	175,687	84,946	90,741	207%
4432 · Consultants	2,385,690	2,449,243	(63,553)	97%
4433 · Outreach Services	49,652	45,721	3,931	109%
4435 · Technology Costs (IT)	4,315	2,002	2,313	216%
4440 · Postage	14,737	19,076	(4,339)	77%
4441 · Printing	17,318	22,092	(4,774)	78%
4450 · Sponsorships	1,603	-	1,603	100%
4452 · Marketing	8,355	-	8,355	100%
4455 · Customer Programs	-	28,250	(28,250)	0%
4500 · Registrations/Memberships	85,671	109,159	(23,488)	78%
4610 · Interest Expense	46,655	70,380	(23,725)	66%
4750 · Bad Debt Expense	1,776,285	1,997,700	(221,415)	89%
<b>Total Expense</b>	<b>50,651,135</b>	<b>49,698,745</b>	<b>952,390</b>	<b>102%</b>
<b>Excess of Revenue over Expenses</b>	<b>14,140,811</b>	<b>17,398,463</b>	<b>(3,257,652)</b>	<b>81%</b>

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Development Security received at termination of a renewable power purchase agreement.

## **ITEM 8C**

Desert Community Energy Board  
September 26, 2023



### **STAFF REPORT**

**Subject:** Bill Protection for Rosa Gardens Apartments Residents

**Contact:** Emily Langenbahn, Management Analyst ([elangenbahn@cvaq.org](mailto:elangenbahn@cvaq.org))

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### **Recommendation: Information**

**Background:** In December 2022, DCE staff learned of a Southern California Edison (SCE) billing issue affecting most residents and the common areas of the Rosa Gardens Apartments, a complex managed by Coachella Valley Housing Coalition in the Desert Highlands Gateway Estates neighborhood of Palm Springs. The billing error, resulting from SCE's conversion to a new invoicing system, prevented SCE from generating invoices for these customers for up to 18 months following the connection of the solar PV system for the complex installed under the California Multifamily Affordable Solar Housing Program. That meant DCE was unable to issue annual true-up bills for the periods ending May 2021 and May 2022 to these customers. DCE began an investigation and raised the issue with SCE immediately.

SCE's Rule 17 on Adjustment of Bills and Meter Tests sets rules on correcting billing errors for undercharges, slow meters and non-registering meters and provides that SCE may only recover or refund residential and small business customers for billing errors within a three-month time limit. SCA applied Rule 17 for its distribution charges to the affected customers. However, Rule 17's provisions only apply to SCE charges and do not apply to generation charges by a Community Choice Aggregator, such as DCE.

Although not required to do so, DCE credited the 52 accounts affected by the delayed 2021 and 2022 true-ups in the Rosa Gardens Apartments complex – saving them thousands of dollars. DCE made the residents of Rosa Gardens aware that the issue had been resolved before receiving the 2021 and 2022 annual true-ups by sending a postcard (attached). The May 2023 annual true-ups were issued on time for the correct amounts.

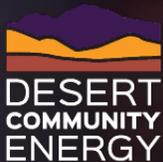
DCE is actively engaging with SCE to resolve this issue and investigating any other impacted accounts. DCE staff will continue to provide updates on this matter.

**Fiscal Analysis:** The delayed true-ups at the Rosa Gardens complex resulted in a total of \$36,514.27 in written off charges for DCE. Staff has engaged in ongoing negotiations with SCE over this matter and has requested reimbursement of the credited charges. As of August 21, 2023, SCE has initiated the process for potential reimbursement of \$30,768.47 to DCE for the delayed 2021 and 2022 residential annual true-ups in the Rosa Gardens neighborhood.

However, the remaining \$5,745.80 applies to non-residential community charges, such as common area lighting. Under Rule 17, these remaining charges fall under the large-scale customer category, allowing for delayed billing of up to three years.

DCE is continuing to investigate the delayed billing issue for any other potential financial impacts as well.

**Attachment:** DCE postcard sent to Rosa Gardens residents in June 2023.



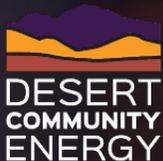
## IMPORTANT UPDATE FOR RESIDENTS

We are pleased to inform you that Desert Community Energy (DCE) has stepped up on your behalf regarding your upcoming bill. SoCal Edison was going to charge you for unbilled amounts from previous years, but DCE worked to prevent that. You will still be receiving a True-Up bill for the last 12 months, but no other prior charges will be included.

Thank you for being a DCE customer!



If you have further questions, please contact DCE at [DesertCommunityEnergy.org](https://www.DesertCommunityEnergy.org) or (855) 357-9240.



## IMPORTANTE ACTUALIZACIÓN PARA LOS RESIDENTES

Nos complace informarle que Desert Community Energy (DCE) ha intervenido en su nombre con respecto a su próxima factura. SoCal Edison iba a cobrarle las cantidades no facturadas de años anteriores, pero DCE trabajó para evitarlo. Usted todavía recibirá una factura True-Up por los últimos 12 meses, pero no se incluirán otros cargos anteriores.

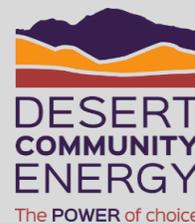
¡Gracias por ser un cliente de DCE!



Si tiene más preguntas, póngase en contacto con DCE en [DesertCommunityEnergy.org](https://www.DesertCommunityEnergy.org) o (855) 357-9240.

## **ITEM 8D**

Desert Community Energy Board  
September 26, 2023



### **STAFF REPORT**

**Subject:** Solar Opportunities along Indian Canyon Drive

**Contact:** Emmanuel Martinz, Program Manager- External Affairs ([emartinez@cvag.org](mailto:emartinez@cvag.org))

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#### **Recommendation: Information**

**Background:** Improving Indian Canyon Drive in the City of Palm Springs has been a longstanding goal for the Coachella Valley Association of Governments, (CVAG). On June 5, 2023, the Coachella Executive Committee, at the recommendation of the Transportation Committee, endorsed the Addressing Climate Change, Emergencies and Sand Storms (ACCESS) effort along Indian Canyon Drive and other low-water crossings. At the same time, the Executive Director was authorized to commit regional transportation funding to maximize the competitiveness for the 2023 Local Transportation Climate Adaptation Program (LTCAP), with the condition that actual expenditure of funds would be dependent on securing grant funding and funding contributions by local jurisdictions.

In July 2023, CVAG submitted an LTCAP application to seek \$50 million for resiliency improvements on Indian Canyon Drive in the City of Palm Springs. To help optimize funding competitiveness, the application centered on the recommendations for Indian Canyon Drive that were identified in CVAG's 2019 Flood and Blowsand Risk Assessment and Improvement Plan for the Western Coachella Valley. The ACCESS project proposed two prefabricated all-weather bridge systems that incorporate arched wildlife crossings. The proposal includes a two-mile active transportation pathway, connecting Desert Hot Springs to CV Link. Additionally, the ACCESS Indian Canyon proposal includes two miles of sand fencing will be installed which will mitigate blowsand on the roadway and help keep the tracks clear at the Palm Springs Amtrak Station.

CVAG's ACCESS Indian Canyon Drive proposal received widespread support from CVAG's member jurisdictions, nonprofit organizations, Desert Regional Medical Center and other agencies. The total estimated cost of the project is \$74.9 million.

Desert Community Energy is among the project supporters. The ACCESS project proposes and a two-mile solar shade structure along the pathway that will provide much-needed shade for users and support the renewable energy and greenhouse gas goals of the state. To minimize blowsand disruptions on the travel lanes, the solar shade structure will be uniquely designed to withstand strong winds and to influence airflow to travel up and over the path and road. The solar shade structure will include sand mitigation fencing on the west side. CVAG staff, which also staff DCE, have coordinated with Southern California Edison on this component and has confirmed that sufficient capacity exists at the nearest interconnection point to support the proposed solar energy generation.

If LTCAP funding is secured and the project moves forward, CVAG will issue a Request for Qualifications for the solar component of the project to identify workforce training opportunities in solar for residents and identify mechanisms that may allocate the solar generation cost savings to low-income electric customers in the area. The goal is to lower energy costs for low-

income residents and increase their disposable income so that they have additional resources for other essentials important to build their resiliency. The solar panels will help generate approximately three megawatts of clean renewable energy for the grid, decreasing reliance on fossil fuel generation resources and other generation resources that emit greenhouse gas emissions. This will align with the aggressive renewable energy and greenhouse gas reduction goals of the state.

For the ACCESS Indian Canyon Drive project, it is anticipated that environmental documents will be completed by June 2024 and the project will be construction-ready by August 2025. The work is being done through a contract the Executive Committee approved in September 26, 2022, when it hired Michael Baker International to provide design, engineering, and environmental services for the Western Coachella Valley Flooding and Blowsand Projects. An amendment to that contract is being presented as a separate agenda item in the Committee's agenda packet.

The LTCAP is a new state program that aims to improve the resiliency of transportation infrastructure at-risk of weather events, natural disasters or climate change. In 2021, President Biden signed the Infrastructure Investment and Jobs Act of 2021 (IIJA) (Public Law 117-58) which created the PROTECT program. The IIJA is also known as the Bipartisan Infrastructure Law (BIL). The law provides \$1.2 trillion for transportation and infrastructure spending, of which \$550 billion is allocated for new investment programs. One of the new investment programs created and funded by the BIL is the Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Program, which was established to help make surface transportation more resilient to climate change, including flooding, extreme weather events and other natural disasters. The PROTECT program was allocated \$8.7 billion. Specifically, the program provides federal funding to transportation projects to help communities address vulnerabilities due to weather, natural disasters, and climate change. The PROTECT program funds are distributed through the PROTECT Discretionary Grants Program (\$1.4B) and the PROTECT Formula Program (\$7.3B). Over the five-year program period, California will receive \$631,410,543 in PROTECT formula funds.

Per State Senate Bill 198, the California Transportation Commission will oversee the state's PROTECT funds, which are being administered via the LTCAP. The LTCAP Program received \$148 million from the General Fund in Fiscal Year 2021-22. In addition to State funds, the LTCAP Program is slated to receive approximately \$49.5 million per year for three years from the Federal PROTECT Formula Program. For the initial programming cycle, the LTCAP will provide a total funding amount of \$296.5 million. As part of the LTCAP, a five percent set-aside of total funding was established for federal recognized Tribal Nations.

The call for projects opened on May 18, 2023, and the deadline for the LTCAP was July 31, 2023. CTC staff will release their recommendations on November 3, and the awarded projects will be adopted by the CTC at their meeting on December 7, 2023. For this first cycle, the LTCAP received 22 proposals requesting a total of \$414.7 million in funds. CVAG was one of four agencies requesting the maximum amount of \$50 million and was one of three applications from Riverside County.

The ACCESS Indian Canyon project is part of a broader regional effort to address roads in the western Coachella Valley that are frequently impacted by flood and blowsand. These events often lead to prolonged road closures, which cause a major inconvenience to residents and visitors and jeopardize the safety of travelers. As recently witnessed with Tropical Storm Hilary, flood events can cause considerable damage to roadways and paralyze the region's transportation network. The storm washed away major arterial roads, rendering many roads in the western part of the valley to be non-functional. As a result, Indian Canyon is expected to be closed for months. These weather events, which are linked to climate change, are projected to worsen over time.

**Fiscal Analysis:** The total cost of the CVAG's ACCESS Indian Canyon Drive is \$74.9 million. CVAG's requested the maximum amount of funds, \$50 million. To help make projects impacted by flood and blowsand shovel-ready, the Executive Committee previously approved an agreement with Michael Baker International in the amount of \$4.5 million, to provide design, engineering and environmental work for impacted western Coachella Valley roads.

The solar component would be funded with regional funding, not the LTCAP funding.

If LTCAP grant funding is awarded, CVAG's share of construction costs will be \$20.4 million. The commitment of regional transportation funding was authorized in June 2023 on the condition that actual expenditure of funds would be dependent on securing grant funding and funding contributions by local jurisdictions.

**Attachment:** Joint letter to Gov. Newsom highlighting the ACCESS project, August 23, 2023



August 23, 2023

Governor Gavin Newsom  
State of California  
1021 O Street, Suite 9000  
Sacramento, CA 95814

RE: Urgent need for funding following Tropical Storm Hilary

Dear Gov. Newsom:

Thank you for your recent visit to the City of Palm Springs as we braced for Tropical Storm Hilary. When we met with you on Sunday, we expressed our concerns that the desert would be immobilized by devastating flood waters and high winds. The storm's destruction will no doubt impact our community for the weeks and months to come.

Your decision to mobilize state resources was hugely beneficial. But additional funding is critical if we are going to not only rebuild our communities' infrastructure and also ensure we are better positioned for future storms.

One of the hardest hit roadways was Indian Canyon Drive, a critical connection point for the Cities of Palm Springs and Desert Hot Springs and the quickest route from Interstate 10 to reach the Coachella Valley's only Level 1 trauma center. As you will see from the photos and news coverage on [www.cvag.org/flooding](http://www.cvag.org/flooding), large chunks of Indian Canyon are washed away and the remaining roadway has sustained considerable damage. Our most optimistic estimates say the road will be closed for weeks, but it may take longer. This closure is already paralyzing the region's transportation network and preventing our residents from accessing work, school and other essential services. Alternative routes are turning into parking lots as frustrated residents try to make it to their destinations.



Climate data trends for the Palm Springs area indicate that unpredictable weather events such as extended droughts and major flood events are becoming even more frequent with climate change. Our cities have been working closely with the Coachella Valley Association of Governments (CVAG) to address roadways like Indian Canyon Drive, which has long been a top priority project for the entire Coachella Valley. Last month, CVAG submitted an application to the California Transportation Commission's (CTC) Local Transportation Climate Adaptation Program for what we are calling the Addressing Climate Change, Emergencies and Sand Storms (ACCESS) – Indian Canyon Drive Project. The ACCESS project includes improvements that increase our climate resiliency, enhance mobility, preserve the environment, and improve public health and safety for residents and

visitors. Specifically, the project includes two bridges to elevate at-grade crossings along the Whitewater River. It also includes a solar-shaded active transportation pathway that connects Desert Hot Springs to CV Link, a 40-mile bike, pedestrian, and low-speed electric vehicle pathway. The project also includes wildlife undercrossings that protects the ecosystem for threatened and endangered species, which aligns with the Coachella Valley Multiple Species Habitat Conservation Plan. We are seeking \$50 million for this \$74 million project, with CVAG and our local agencies covering the remaining costs.

The solution for Indian Canyon stemmed from a Flood and Blowsand Risk Assessment and Improvement Plan that CVAG wrapped in 2019. The study identified solutions to increase the resilience of impacted local roads and find more cost-effective alternatives to keep roads like Indian Canyon open. Thoughtful placement of pre-fabricated bridges and culverts have replaced previous plans of a \$250 million bridge that extends across the entirety of the Whitewater River.

Tropical Storm Hilary is unfortunately just the latest climate related event to wreak havoc on our community and local roads. In 2019, the Coachella Valley experienced the Valentine's Day deluge that also flooded Indian Canyon Drive Gene Autry and Vista Chino – the same roads that are now damaged and closed as a result of Tropical Storm Hilary. Even before this storm, in 2023 alone, Indian Canyon Drive has been closed for 38 days due to flood and blowsand events. It becomes nearly impossible to get in and out of our cities after these events. Emergency response times are compromised due to the impassable roads, putting lives at risk during critical situations. The repair of these roads is not just a matter of convenience but a necessity for the safety, economic stability and overall wellbeing of our residents.

As we have after previous storms, our communities are now banding together to clear our roads and repair the damage. But as the Coachella Valley continues to feel the impacts of climate change, we need the State's continued partnership in order to take a more proactive approach – and to secure funding for long-term solutions that will keep roads such as Indian Canyon open during future weather events. Should you have any questions or need additional information, please contact Tom Kirk, CVAG Executive Director, at 760-346-1127 or at [tkirk@cvag.org](mailto:tkirk@cvag.org).

Sincerely,



Grace Garner  
Mayor, City of Palm Springs



Lisa Middleton  
Councilmember, City of Palm Springs



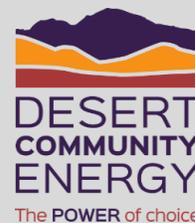
Scott Matas  
Mayor, City of Desert Hot Springs  
Chair, Coachella Valley Association of Governments

CC:

Eleni Kounalakis, Lt. Governor, State of California  
Assemblymember Greg Wallis, Assembly District 47  
Assemblymember Eduardo Garcia, Assembly District 36  
Senator Kelly Seyarto, Senate District 32  
Lee Ann Eager, Chair, California Transportation Commission  
Carl Guardino, Vice Chair, California Transportation Commission  
Jay Bradshaw, Commissioner, California Transportation Commission  
Joseph Cruz, Commissioner, California Transportation Commission  
Clarissa Reyes Falcon, Commissioner, California Transportation Commission  
Darnell Grisby, Commissioner, California Transportation Commission  
Adonia Lugo, PhD, Commissioner, California Transportation Commission  
Joseph K. Lyou, Ph.D. Commissioner, California Transportation Commission  
Michele Martinez, Commissioner, California Transportation Commission  
Hilary Norton, Commissioner, California Transportation Commission  
Joseph Tavaglione, Commissioner, California Transportation Commission  
Toks Omishakin, Secretary, California State Transportation Agency  
Tanisha Taylor, Executive Director, California Transportation Commission  
Laurie Waters, Associate Deputy Director, California Transportation Commission  
Rebecca Light, Assistant Deputy Director, California Transportation Commission  
Tony Tavares, Director, Caltrans  
Catalino A. Pining III, District 8 Director, Caltrans  
Anne Mayer, Executive Director, Riverside County Transportation Commission  
Rita Lamb, Mayor, City of Cathedral City  
Mark Carnavale, Mayor Pro Tem, City of Cathedral City  
Nancy Ross, Councilmember, City of Cathedral City  
Ernesto Gutierrez, Councilmember, City of Cathedral City  
Raymond Gregory, Councilmember, City of Cathedral City  
Charlie McClendon, City Manager, City of Cathedral City  
Roger Nunez, Mayor Pro Tem, City of Desert Hot Springs  
Russell Betts, Councilmember, City of Desert Hot Springs  
Gary Gardner, Councilmember, City of Desert Hot Springs  
Jan Pye, Councilmember, City of Desert Hot Springs  
Doria Wilms, Interim City Manager, City of Desert Hot Springs  
Jeffrey Bernstein, Mayor Pro Tem, City of Palm Springs  
Ron deHarte, Councilmember, City of Palm Springs  
Christy Holstege, Councilmember, City of Palm Springs  
Scott Stiles, City Manager, City of Palm Springs

## **ITEM 8E**

Desert Community Energy Board  
September 26, 2023



### **STAFF REPORT**

**Subject:** Demand Side Grid Support and Distributed Electricity Backup Assets Programs

**Contact:** David Freedman, Program Manager ([dfreedman@cvag.org](mailto:dfreedman@cvag.org))

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### **Recommendation: Information**

**Background:** Assembly Bill (AB) 205, passed in June 2022, created the Demand Side Grid Support (DSGS) and Distributed Electricity Backup Assets (DEBA) programs as part of the State's Strategic Reliability Reserve. The California Energy Commission (CEC) administers these programs. This staff report outlines opportunities for DCE and its customers to participate in the DSGS and DEBA programs.

#### *DSGS program*

The DSGS program compensates eligible customers for upfront capacity commitments and per-unit reductions in net energy load during extreme events achieved through reduced usage or use of backup generation or both. On August 10, 2022, the CEC adopted guidelines to implement the DSGS program. Participants enrolled 315 megawatts in the program to help meet grid needs during the September 2022 heatwave. The CEC adopted the second edition of the DSGS program guidelines on July 26, 2023, to implement AB 209, which passed in September 2022 and expands DSGS program eligibility. A total of \$314 million in funding is available for the DSGS program.

The DSGS program has three incentive options. Option 1 provides payments in the event of an Energy Emergency Alert issued by the California Independent System Operator (CAISO). Eligible participants include all customers of publicly owned utilities, as well as water agencies and customers participating with backup generators served by Community Choice Aggregators (CCAs) such as DCE and investor-owned utilities such as Southern California Edison. Enrollment in the program is generally with a DSGS provider registered with the CEC, and at least one such provider has begun reaching out to local water agencies. Direct enrollment with the CEC is also possible in certain cases.

DSGS program Options 2 and 3 are provided by demand response (DR) aggregators on behalf of their customers. Customers participating in DSGS Option 2 will provide load reduction via behavioral and/or automated means and measured using utility smart meter data, while customers participating in DSGS Option 3 will provide load reduction via stationary batteries with inverter-based metering.

One such DR aggregator is OhmConnect. Based on direction provided by the DCE Board, DCE has been working with OhmConnect since December 2021 on outreach to encourage customers to avoid peak hours to save energy and money. Through the partnership with OhmConnect, DCE customers are incentivized to switch out old thermostats with new ones and use smart plugs. The program lets customers know when they need to turn things off and rewards them with points

when they meet OhmConnect hours. Customers who enroll in OhmConnect's demand response program can receive prizes and rewards such as gift certificates and even cash. There is also a \$50 incentive for joining.

Based on information provided by OhmConnect, as of September 1, 2023, 743 DCE customers have signed up with OhmConnect, with 378 customers connecting their devices to the OhmConnect application. Of the 743 customers, 411 enrollments result from the DCE promotion campaign. DCE has the highest percentage of customers with a connected device (42%) of any CCA in the state. DCE customers have reduced 31.5 megawatt hours of energy since the OhmConnect partnership began.

### *DEBA program*

The DEBA program incentivizes the construction of cleaner and more efficient distributed energy assets that serve as on-call emergency supply or load reduction for the state's electrical grid during extreme events, such as an Energy Emergency Alert issued by the CAISO. On August 11, 2023, the CEC issued draft guidelines for the DEBA program and accepted comments on them. Among the stakeholders commenting on DEBA was California Community Choice Association (CalCCA), the non-profit association of CCAs discussed in agenda item 6X.

The DEBA program has two project funding categories:

1. Bulk Grid Assets: Efficiency upgrades, maintenance, and clean capacity additions to existing power generators (initial budget of up to \$100 million); and
2. Distributed Resources: New zero- or low-emission technologies, including, but not limited to, fuel cells or energy storage, at existing or new facilities (initial budget of up to \$445 million).

Funding recipients must participate as on-call emergency resources during extreme events. At least 25% of funding must go to projects in publicly owned utility territory. At least 25% of distributed resources funding must go to projects located in or benefiting disadvantaged communities, which include those representing the 25% highest scoring census tracts in CalEnviroScreen 3.0 or 4.0 and federally recognized tribal areas (including lands owned by the Agua Caliente Band of Cahuilla Indians and its members). The CEC will award funding through Grant Funding Opportunity (GFO) solicitations. Technical scoring criteria will be tailored with each GFO solicitation.

All public and private entities are eligible applicants, provided they intend to own or operate the eligible project. Eligible projects must be located in California and interconnected to California's electrical grid and provide expected electricity supply or load reduction to California during extreme events. Bulk grid assets (e.g., back-up generators) are also required to comply with mandatory GHG emissions reporting requirements of the California Global Warming Solutions Act of 2006.

The CEC is expected to approve the DEBA program guidelines at its business meeting on October 18, 2023. The CEC will issue its first GFO solicitations following approval of the guidelines and will hold pre-application workshops in November 2023. The first GFO applications will be due in December 2023.

**Fiscal Analysis:** There is no cost to DCE to provide this update.

**Attachment:** CEC summary of DSGS and DEBA programs



# CEC Reliability Reserve Incentive Programs

	Demand Side Grid Support (DSGS)	Distributed Electricity Backup Assets (DEBA)
Funding	\$314 Million	\$545 Million (\$595 over 5 years)
Incentivized Activities	Use of load reduction resources during extreme events	Purchase of cleaner and more efficient distributed energy assets that will serve as on-call emergency supply or load reduction
Eligibility	Statewide	Statewide
Program Status	Launched 2022, Expanded for Summer 2023	Under Development