



DESERT COMMUNITY ENERGY BOARD MEETING AGENDA

**Monday, January 8, 2024
3:00 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/81194071627?pwd=UThicW5aNnhMS3EwRW1jTXdzZFR5QT09>

**Dial In: +1 669 900 9128 US
Webinar ID: 811 9407 1627
Password: 705598**

**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 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**

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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 November 20, 2023 Board Meeting**

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B. **Adopt Resolution 2024-01 to Authorize Investments in the California Treasurer's Local Agency Investment Fund**

P9

7. **DISCUSSION / ACTION**

A. **Contract Amendments with The Energy Authority – David Freedman**

P11

Recommendation: Authorize the Executive Director to negotiate and execute amendments to the Resource Management Agreement and Task Order 2 with The Energy Authority, Inc., extending the term until January 22, 2027 and replacing the credit solution with a guaranty from the City of Palm Springs

B. **Update on Enterprise Resource Planning (ERP) System Selection – Allen McMillen**

P41

Recommendation: Information

C. **Carbon Free Business Recognition Program – Emily Langenbahn**

P45

Recommendation: Information

8. **INFORMATION**

A) **Attendance Record**

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B) Unaudited Year-to-Year Financial Report as of October 31, 2023	P47
C) January 2024 Rate Adjustment Summary	P50
D) Solar Opportunities along Indian Canyon Drive	P52
E) Pursuit of DCE's Investment Grade Credit Rating	P56
F) Renewable and Mid-Term Reliability 2023/2024 Request for Proposals	P57
G) Roll out of SCE's Solar Billing Program	P68

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 February meeting is being cancelled. The next DCE meeting will be held March 18, 2024 at 3:00 p.m. at the Large Conference Room at Palm Springs City Hall, 3200 E. Tahquitz Canyon Way, Palm Springs, 92262.

11. CLOSED SESSION

Conference with Legal Counsel – Existing Litigation

Pursuant to Government Code Section 54956.9(d)(1)

Name: CPUC Resource Adequacy Proceedings (K.23-05-017; Citation No. E-4195-0156; R.23-10-011)

12. ADJOURNMENT



DESERT COMMUNITY ENERGY BOARD MEMBER ROSTER

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

ITEM 6A

Desert Community Energy Board Meeting Minutes November 20, 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 Lisa Middleton at 3:03 p.m. at Palm Springs Police Department Training Center Conference Room, Classroom A, 200 S. Civic Dr., Palm Springs, CA 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)

None

4. PUBLIC COMMENTS ON AGENDA ITEMS

Brad Anderson, resident of Rancho Mirage, stated he is against the lobbying in item 7A and expressed that he is cautious about the selection process in item 7C.

5. BOARD MEMBER / DIRECTOR COMMENTS

DCE Program Manager David Freedman announced that CVAG has been recommended for a \$50 million grant by the California Transportation Commission (CTC) for flooding and blowsand project along Indian Canyon, which will include a two-mile solar shade structure. The award recommendation and vote is set to take place on December 6.

Mr. Freedman announced that there is no DCE board meeting in December as the Board is dark. The next meeting will be held on January 8 at City Hall in Palm Springs.

6. CONSENT CALENDAR

IT WAS MOVED BY FINANCE DIRECTOR CHAVEZ AND SECONDED BY COUNCILMEMBER MIDDLETON TO APPROVE CONSENT CALENDAR ITEMS:

- A. Approve Minutes from the September 26, 2023 Board Meeting**

- B. Adopt DCE's 2023-24 Legislative Platform, which adds energy affordability into the set of policies that is supported by DCE**

THE MOTION CARRIED WITH 2 AYES.

Councilmember Middleton	Aye
Finance Director Chavez	Aye

7. DISCUSSION / ACTION

A. Presentation: Statewide Legislative and Policy Efforts Impacting Community Choice Providers

Beth Vaughan, the Executive Director of California Community Choice Association (CalCCA) provided the presentation via zoom.

This item was an informational item with no action taken.

B. DCE's Audit for Fiscal Year 2022/23 and Related Reports

Finance Director Claude Kilgore introduced Shannon Ayala with Davis Farr, LLP who presented the 2022/2023 audit.

IT WAS MOVED BY FINANCE DIRECTOR CHAVEZ AND SECONDED BY COUNCILMEMBER MIDDLETON TO RECEIVE AND FILE THE AUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDED JUNE 30, 2023, REPORT ON INTERNAL CONTROLS OVER FINANCIAL REPORTING, AND THE AUDITOR'S COMMUNICATION WITH THOSE CHARGED WITH GOVERNANCE.
THE MOTION CARRIED WITH 2 AYES.

Councilmember Middleton	Aye
Finance Director Chavez	Aye

C. Contract for Marketing and Community Engagement Services

Management Analyst Emily Langenbahn presented the staff report and recommendation.

Brief member discussion ensued. Finance Director Chavez requested that the wording of the proposed contracted be amended to include "contingent on budget approval" Prior to execution.

IT WAS MOVED BY FINANCE DIRECTOR CHAVEZ AND SECONDED BY COUNCILMEMBER MIDDLETON TO AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE A THREE-YEAR SERVICES CONTRACT WITH BURKE RIX FOR MARKETING AND OUTREACH EFFORTS FOR A TOTAL AMOUNT NOT-TO-EXCEED AMOUNT OF \$285,415 THROUGH DECEMBER 31, 2026, CONTINGENT ON BUDGET APPROVAL

THE MOTION CARRIED WITH 2 AYES.

Councilmember Middleton	Aye
Finance Director Chavez	Aye

D. Cost-free nuclear energy generation allocations from SCE and PG&E

Mr. Freedman presented the staff report.

IT WAS MOVED BY COUNCILMEMBER MIDDLETON AND SECONDED BY FINANCE DIRECTOR CHAVEZ TO AUTHORIZE THE EXECUTIVE DIRECTOR TO ELECT FOR DCE TO RECEIVE ITS PRO RATA ALLOCATIONS OF NUCLEAR ENERGY GENERATION FROM SOUTHERN CALIFORNIA EDISON (SCE) AND PACIFIC GAS AND ELECTRIC (PG&E), AT NO ADDITIONAL COST TO DCE

THE MOTION CARRIED WITH 2 AYES.

**Councilmember Middleton
Finance Director Chavez**

**Aye
Aye**

E. Guaranty of DCE's Obligations to The Energy Authority

Mr. Freedman presented the staff report.

Councilmember Middleton commented that the matter will go to the City of Palm Springs City Council for final approval.

IT WAS MOVED BY COUNCILMEMBER MIDDLETON AND SECONDED BY FINANCE DIRECTOR CHAVEZ TO AUTHORIZE THE EXECUTIVE DIRECTOR TO TAKE THE NECESSARY STEPS TO SECURE FROM THE CITY OF PALM SPRINGS A GUARANTY OF DCE'S POWER PROCUREMENT OBLIGATIONS TO THE ENERGY AUTHORITY, NOT TO EXCEED \$25 MILLION

THE MOTION CARRIED WITH 2 AYES.

**Councilmember Middleton
Finance Director Chavez**

**Aye
Aye**

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 September 30, 2023
- C) DCE's Unaudited Investment Report through September 30, 2023
- D) DCE Financial Outlook
- E) Future Updates to DCE Policy for Net Energy Metering Service
- F) October 2023 Rate Adjustment Summary

G) SCE Consolidated Metering and Billing Errors

9. PUBLIC COMMENT ON NON-AGENDA ITEMS

Brad Anderson, resident of the City of Rancho Mirage, expressed his concerns regarding public comment participation and the length of time allowed for comment, as well as the size of the DCE Board.

Resident Rosario Avila joined the meeting via Zoom to request DCE make meeting minutes more readily available on the website after every DCE meeting.

10. ANNOUNCEMENTS

The next DCE meeting will be held January 8, 2024 at 3:00 p.m. at the Large Conference Room at Palm Springs City Hall, 3200 E. Tahquitz Canyon Way, Palm Springs 92262.

11. CLOSED SESSION

The Board adjourned to closed session at 3:53 p.m.

Conference with Legal Counsel – Existing Litigation

Initiation of litigation pursuant to Government Code Section 54956.9(d)(1)
Name: CPUC Resource Adequacy Proceedings (K.23-05-017; R.23-10-011)

The closed session concluded at 4:06 p.m.

Mr. Freedman announced that there was no reportable action taken.

12. ADJOURNMENT

Mr. Freedman adjourned the meeting at 4:07 p.m.

Respectfully submitted,

Elysia Regalado
Management Analyst- Administration

ITEM 6B

Desert Community Energy Board
January 8, 2024



STAFF REPORT

Subject: Investing in the California Treasurer's Local Agency Investment Fund (LAIF)

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

Recommendation: Adopt Resolution 2024-01 to Authorize Investments in the California Treasurer's Local Agency Investment Fund

Background: The DCE Board of Directors recently adopted DCE's Investment Policy which provides guidelines for the prudent management of financial resources to ensure the long-term sustainability and success of DCE. Policy No. 23-03 allows for investments in various instruments that meet specified criteria, and includes the Local Agency Investment Fund (LAIF) as one such permissible investment. LAIF is a pooled investment fund operated by the State of California's Treasurer's Office. LAIF is designed to offer local agencies a safe and liquid investment option for their surplus funds. It provides competitive yields, daily liquidity, and professional fund management services. LAIF investments are backed by the State of California.

To invest in LAIF, DCE is required to have a resolution that authorizes its participation. Staff is recommending its adoption for the various benefits that LAIF will provide. LAIF is a low-risk investment vehicle, providing a secure option for DCE funds. Its structure and oversight by the State Treasurer's Office ensure that investments are prudently managed, minimizing the risk of capital loss. LAIF also offers daily liquidity, allowing DCE to access funds as needed without incurring penalties or restrictions. This flexibility aligns with DCE's financial strategy, enabling efficient cash management. Additionally, LAIF consistently offers competitive yields compared to other low-risk investment options.

The adoption of a LAIF resolution is consistent with the recently approved DCE Investment Policy and DCE's commitment to sound financial management and prudent investment practices. Upon the adoption of the resolution, DCE staff will work with the appropriate financial institutions to facilitate the investment of funds into LAIF at a future date.

Fiscal Analysis: There is no cost to adopt the resolution. Once on file, it will allow for additional returns with an overall positive financial impact.

Attachment: Resolution 2024-01

RESOLUTION NO. 2024-01

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
DESERT COMMUNITY ENERGY
AUTHORIZING INVESTMENT OF MONIES
IN THE LOCAL AGENCY INVESTMENT FUND**

Agency Address: 74-199 El Paseo Dr., Suite
100, Palm Desert, CA 92260

Agency Phone Number: 760.346.1127

WHEREAS, The Local Agency Investment Fund is established in the State Treasury under Government Code section 16429.1 et. seq. for the deposit of money of a local agency for purposes of investment by the State Treasurer; and

WHEREAS, the Board of Directors hereby finds that the deposit and withdrawal of money in the Local Agency Investment Fund in accordance with Government Code section 16429.1 et. seq. for the purpose of investment as provided therein is in the best interests of Desert Community Energy.

NOW THEREFORE, BE IT RESOLVED, that the Board of Directors hereby authorizes the deposit and withdrawal of Desert Community Energy monies in the Local Agency Investment Fund in the State Treasury in accordance with Government Code section 16429.1 et. seq. for the purpose of investment as provided therein.

BE IT FURTHER RESOLVED, as follows:

Section 1. The following Desert Community Energy officers holding the title(s) specified herein below **or their successors in office** are each hereby authorized to order the deposit or withdrawal of monies in the Local Agency Investment Fund and may execute and deliver any and all documents necessary or advisable in order to effectuate the purposes of this resolution and the transactions contemplated hereby:

Lisa Middleton
(NAME)

Chair
(TITLE)

(SIGNATURE)

Tom Kirk
(NAME)

Executive Director
(TITLE)

(SIGNATURE)

Claude T. Kilgore
(NAME)

Director of Finance
(TITLE)

(SIGNATURE)

Section 2. This resolution shall remain in full force and effect until rescinded by the Board of Directors by resolution and a copy of the resolution rescinding this resolution is filed with the State Treasurer's Office.

PASSED AND ADOPTED at a meeting of the Board of Directors of Desert Community Energy held on January 8, 2024.

ATTEST:

Lisa Middleton, Chair
Desert Community Energy

Tom Kirk, Secretary
Desert Community Energy

ITEM 7A

Desert Community Energy Board January 8, 2024



STAFF REPORT

Subject: Contract Amendments with The Energy Authority

Contact: David Freedman, Program Manager (dfreedman@cvag.org)

Recommendation: Authorize the Executive Director to negotiate and execute amendments to the Resource Management Agreement and Task Order 2 with The Energy Authority, Inc., extending the term until January 22, 2027 and replacing the credit solution with a guaranty from the City of Palm Springs

Background: At its November 2023 meeting, the Board was provided an update on the looming end date of the current Resource Management Agreement (RMA) that DCE has with The Energy Authority, Inc. (TEA). Since January 2018, TEA has provided operational services to DCE, including power procurement and supply, credit support and analysis, power purchase agreement negotiation, rate design, risk management, financial planning, scheduling coordination, and related services, all of which would otherwise require significant staffing and financial resources if managed internally by DCE.

TEA's services are carried out under the RMA, which expires on January 22, 2024. Under the RMA, DCE's power procurement not covered by long-term agreements are executed by TEA, using TEA's counterparty credit and contracts. In considering an amendment extending its term another three years, TEA advised DCE staff that its equity owners (EOs) intended to cease providing guaranties of DCE's credit solution.

At its meeting of November 20, 2023, the DCE Board authorized the Executive Director to take the necessary steps to secure from the City of Palm Springs a guaranty of DCE's power procurement obligations to TEA under the RMA, not to exceed \$25 million, to replace the guaranty previously provided by two of TEA's EOs. The arrangement was presented to the Palm Springs City Council, which unanimously approved the guaranty at its meeting of December 14, 2023. The City Council staff report is attached.

Staff is now recommending the Board approve proposed amendments to the RMA and related Task Order 2. These will replace the credit solution provided by the EOs, which will save DCE customers about \$400,000 per year with the guaranty provided by the City of Palm Springs, effective December 29, 2023. As an added benefit, this action will remove the security interest and lien on any DCE financial reserves.

The amendment to the RMA extends its term until January 22, 2027. At the end of this period, the RMA will renew on an annual basis for successive one-year terms, unless otherwise agreed to by DCE and TEA or terminated pursuant to the RMA.

With this item, staff is seeking authorization for the Executive Director to execute the amendments to the RMA and Task Order 2 that extend the term of the RMA for three years, replace the credit

solution provided by TEA's EOs with the guaranty for the City of Palm Springs, and remove the security interest and lien on any DCE financial reserves. This authorization would also authorize the Executive Director and Legal Council to make minor, clarifying changes prior to execution.

Fiscal Analysis: In exchange for using TEA credit backed by the guaranty of its EOs, DCE has paid TEA a \$1.00/Megawatt hour "credit solution fee." Removing TEA's credit solution fee will save DCE customers approximately \$400,000 per year. These savings will contribute to DCE's reserves, which can be used for rate stabilization, programs for DCE customers and other uses in accordance with DCE Policy No. 18-10 Financial Reserve Policy as amended by the Board at its June 2023 meeting.

The scope of wholesale services provided by TEA under the RMA and Task Order 2 and TEA's corresponding monthly service fee of approximately \$57,000 in FY 2023/24 will remain unchanged. Working with DCE's independent energy consultant, Don Dame, and other Community Choice Aggregators that use TEA and other providers of power procurement services, DCE staff has confirmed that TEA's service fees are in line with current market conditions.

Attachments:

1. Palm Springs City Council staff report, December 14, 2023
2. Amendment No. 2 to Resource Management Agreement
3. Amendment No. 3 to the 2019 Amended and Restated Task Order 2 for Phase III Core Services



CITY COUNCIL STAFF REPORT

DATE: DECEMBER 14, 2023

CONSENT CALENDAR

SUBJECT: DESERT COMMUNITY ENERGY GUARANTY

FROM: Scott C. Stiles, City Manager

BY: Office of Sustainability

SUMMARY:

Desert Community Energy (DCE), which procures electricity for residents and businesses across the City, is requesting the City enter into a Guaranty in favor of The Energy Authority, Inc. (TEA), guaranteeing DCE's electricity procurement obligations to TEA, not to exceed \$25 million, pursuant to DCE's Resource Management Agreement (RMA) with TEA. Replacing the existing guaranty mechanism, which is financed through TEA, under the RMA with the City's guaranty would save DCE customers approximately \$400,000 per year. These savings will contribute to DCE's reserves, which can be used for rate stabilization, programs for DCE customers and other uses in accordance with DCE's Financial Reserve Policy. The savings will also facilitate DCE's ability to enter into additional power purchase agreements to provide more locally produced, cleaner energy to residents and businesses in Palm Springs.

RECOMMENDATION:

1. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING AN UNCONDITIONAL GUARANTY OF THE ELECTRICITY PROCUREMENT OBLIGATIONS OF DESERT COMMUNITY ENERGY, NOT TO EXCEED \$25 MILLION, UNDER A RESOURCE MANAGEMENT AGREEMENT WITH THE ENERGY AUTHORITY, INC."
2. Authorize the City Manager, in consultation with the City Attorney, to negotiate and take such actions necessary and appropriate to finalize and execute the Guaranty and associated documents.

BACKGROUND:

Desert Community Energy (DCE) was created in October 2017 as a joint powers agency to provide a Community Choice Aggregation (CCA) program to member agencies, which

are currently the cities of Palm Springs and Palm Desert. In June 2019, the Palm Springs City Council voted unanimously to move forward with a CCA program for the City. As part of the City's commitment to sustainability and saving the planet, Palm Springs customers were enrolled in the 100% Carbon Free product and became DCE customers beginning April 1, 2020. The City of Palm Desert has not yet determined its launch plans. Therefore, the City is currently the only member, with residents and businesses, including the City of Palm Springs' own accounts that are served by DCE.

By June 2023, DCE served approximately 4,500 non-residential and 28,800 residential customer accounts, for a total of approximately 33,300 Palm Springs accounts, representing about 84% of all eligible electricity customers in Palm Springs. The DCE Carbon Free plan has been critical to the City's efforts to reduce greenhouse gas (GHG) emissions. The City assessed its GHG emissions for 2020 and found that it had exceeded the State of California's ambitious goals to reduce emissions and help fight climate change. This accomplishment is the direct result of the majority of the City's residents and businesses receiving 100% Carbon Free electricity from DCE. Without DCE, the assessment showed that Palm Springs would have had nearly a 4% increase in greenhouse gas emissions over the past decade.

Since January 2018, The Energy Authority, Inc. (TEA), has been contracted to provide operational services to DCE, including power procurement and supply, credit support and analysis, power purchase agreement negotiation, rate design, risk management, financial planning, scheduling coordination, and related services, all of which would otherwise require significant staffing and financial resources if managed internally by DCE. TEA is a non-profit corporation providing wholesale power and portfolio management services to more than 50 public power agencies across the country. TEA is currently providing operational services to several other CCAs in California, including Redwood Coast Energy Authority and Valley Clean Energy Alliance.

TEA's services are carried out under its Resource Management Agreement (RMA) with DCE. Under the RMA, DCE's transactions for the purchase and sale of electricity products not covered by long-term agreements are executed by TEA as principal, using TEA's counterparty credit and contracts. These purchases are currently guaranteed by two of TEA's Equity Owners (EOs), who are public power agencies. In exchange for using TEA credit and contracts, DCE pays TEA a \$1.00/Megawatt hour (MWh) "credit solution fee," which costs DCE customers about \$400,000 per year. The credit solution fee has always been intended as an interim solution that enables DCE to procure power until DCE establishes credit worthiness on a stand-alone basis.

The RMA expires on January 22, 2024. In connection with an amendment extending its term another three years, TEA advised DCE staff that its EOs intend to cease providing guaranties of TEA's purchases of electricity products, effective December 29, 2023.

DCE staff has evaluated the feasible alternative options, which are limited but include expanding DCE's existing revolving line of credit with River City Bank (RCB) or obtaining

other commercial lines of credit. DCE staff concluded that the most efficient, and least cost option, for replacing the TEA credit solution is for the City of Palm Springs to guaranty market purchases executed by TEA for the benefit of DCE customers. Based on TEA's analysis of DCE's market exposure, the City of Palm Springs guaranty would be for an amount not to exceed \$25 million. This guaranty amount was derived by TEA's credit risk team and reviewed by DCE staff and includes three key metrics: i) prior month activity that has been billed; ii) current month activity that has not been billed; and iii) mark-to-market exposure on fixed-priced energy contracts that DCE has entered into with TEA for future periods.

TEA's credit and risk group assesses the City of Palm Springs as a financially strong, creditworthy entity in contrast to DCE, which currently has no formal credit rating. With the City's guaranty, TEA would continue transacting on DCE's behalf using TEA's credit and contracts. However, TEA would remove the first priority security interest and lien on DCE financial reserves and the credit solution fee. In essence, TEA would treat DCE like its traditional public power electric utility clients.

The City's guaranty to TEA would be in addition to the guaranty the City provided last year related to DCE's \$13 million revolving line of credit with RCB, which is available for DCE's working capital needs (up to \$8 million) and issuance of letters of credit to DCE energy counterparties, such as Southern California Edison. Although there are currently no outstanding drawings on the line of credit, the RCB arrangement is not able to take the place of the TEA guaranty.

The DCE Board, at its November 20 meeting, authorized DCE's Executive Director to take the necessary steps to secure from the City of Palm Springs a guaranty of DCE's power procurement obligations to TEA, not to exceed \$25 million. DCE legal counsel, the City Attorney, and TEA legal counsel have worked together to prepare the Guaranty included in this agenda packet.

If Council approves the Guaranty, DCE staff will bring back to the DCE Board at its next meeting – currently scheduled for January 8, 2024 – the proposed amendments to its agreements with TEA related to the RMA and Task Order 2 and replace the credit solution provided by the EOs with the guaranty provided by the City of Palm Springs. As an added benefit, this action will remove the security interest and lien on any DCE financial reserves.

Backing in the form of the Guaranty from the City of Palm Springs, with its long existing, high quality credit rating, is the key to making this process a success, allowing DCE to secure its obligations to TEA and providing DCE the continued financial flexibility it requires over the next few years as it builds reserves.

Guaranty Key Elements:

The key elements of the Guaranty include:

- The Guaranty is effective as of December 29, 2023, when the guaranties provided by the TEA EOs expire.
- Palm Springs is the guarantor of DCE's transactions for the purchase of power and other electricity products under the RMA with TEA, up to a maximum aggregate liability of \$25 million.
- Palm Springs' guaranty is limited to any unpaid amounts that may be outstanding and due for transactions for the purchase of electricity products under the RMA.
- Palm Springs' credit support obligations would commence only if DCE defaults in its payment obligations for purchases of electricity products under the RMA.
- In the event that DCE has posted any cash collateral or irrevocable letter of credit with TEA to secure the electricity product purchase transactions, TEA will attempt to enforce its rights in such collateral prior to seeking payment from Palm Springs.

STAFF ANALYSIS:

The proposed Guaranty (**Attachment A**) identifies the City of Palm Springs as the Guarantor and commits the city to guaranty all obligations of DCE for electricity product transactions under the RMA. The maximum and most unlikely risk for the City of Palm Springs would result from a sudden and unexpected event that might cause the cessation of DCE's power business operations and a subsequent default under the RMA. In this event, the risk to Palm Springs would be the requirement to repay any then outstanding balance owed for purchases of electricity products under the RMA, after DCE has undertaken all available steps to repay any outstanding amounts through rate actions, sale of already procured power, or other available financial avenues.

It should be noted that DCE's recent audit showed Fiscal Year 2022/23 marked a significant turning point for DCE as it was able to accumulate necessary reserve levels to temper cash flow variability and did not have an outstanding balance on the RCB line of credit since February 2023. This is also evident in the year-over-year growth in DCE's Net Position, which increased nearly three-fold from June 30, 2022.

While there is risk associated with the proposed Guaranty, that risk is limited given the following mitigating factors:

- DCE is the default local electricity provider in Palm Springs, with a stable customer base and revenue stream. About 84% of Palm Springs electricity accounts are DCE customers and most are enrolled in DCE's 100% Carbon Free product.
- DCE is able to raise rates as may be necessary to enhance revenues to meet operating requirements.
- DCE currently holds a \$13 million revolving line of credit facility with RCB, with no drawings currently outstanding which could be utilized for payment of electricity product transactions to TEA before the proposed Guaranty would be actuated.

- As of September 30, 2023, DCE had an unrestricted cash balance of approximately \$16.3 million and a total net position of approximately \$23.5 million, corresponding to 176 days adjusted days of liquidity on hand.
- Projections target DCE having \$40.9 million in cash reserves by the end of 2025.
- DCE has prudent fiscal policies, sound financial practices, and active risk management efforts.

There are also risks if the Guaranty required for DCE to replace the expiring guaranties from TEA's EOs is not consummated. Potential negative outcomes that would likely occur absent the proposed Guaranty:

- Significant challenges for DCE to procure power and other electricity products absent collateral postings to counterparties that will tie up DCE's cash reserves.
- Increased cost of credit and power transactions, which may translate to increased rates and higher cost of electricity for Palm Springs customers.
- Increased indirect costs and DCE staff time required to bring the necessary functions currently served by TEA in-house.
- Impacts to DCE's ability to provide 100% Carbon Free electricity and the associated positive GHG emissions reduction and climate mitigating benefits made possible by Palm Springs and its residents and businesses.

As a relatively new entrant in the CCA business, DCE has been particularly vulnerable to market volatility and energy price increases not evident since the California energy crisis of 20 years ago. This volatility has further increased since the extended heat storm of September 2022, which led to exceedingly high energy prices on the spot market. The Palm Springs guaranty of DCE's electricity procurement obligations to TEA will be a significant positive step to help DCE continue to build reserves to manage this volatility, revenue accrual swings, and uncertainty regarding factors out of DCE's direct control. In a time of challenging market conditions since DCE's 2020 launch, DCE has implemented strategies and taken other steps to reduce costs, manage volatility and promote rate stability for its customers. DCE remains on track in pursuing those strategies and steps.

ALIGNMENT WITH STRATEGIC PLANNING:

This agenda item aligns with sustainability, one of the overarching principles in the City's 2023/25 Strategic Plan. DCE's Carbon Free product is a relatively cost-effective way for the City to help achieve GHG reduction goals. As noted above, the participation in DCE's Carbon Free energy by the City and Palm Springs residents and businesses helped the City meet its state-mandated goal of reducing 2020 GHG emissions levels below those of 1990.

Approval of the Guaranty will provide DCE with additional financial stability so that it may offer new programs and procure additional energy resources in Palm Springs. DCE recently entered into a 15-year Energy Storage Agreement with a subsidiary of NextEra

Energy Resources for a 25 megawatt / 200 megawatt hour lithium-ion battery storage facility located in North Palm Springs. DCE is also working with Coachella Valley Association of Governments (CVAG) on a two-mile solar shade structure as part of the infrastructure project along Indian Canyon Drive at the wash to reduce the frequent closures from flooding and blows, for which CVAG has just been awarded a \$50 million grant from the California Transportation Commission.

ENVIRONMENTAL ASSESSMENT:

The proposed action does not result in a “Project” as defined by the California Environmental Quality Act (CEQA). Pursuant to Section 15378(a), a “Project” means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

FISCAL ANALYSIS:

There is no immediate fiscal impact of the proposed Guaranty provided DCE meets its obligations as provided in the RMA. Should DCE not meet its obligations then the City will be liable for such obligations as provided in the terms of the of Guaranty. However, this potential liability risk is mitigated by DCE’s prudent fiscal management noted above.

It should also be noted that the City of Palm Springs is one of the largest power customers of DCE for the City’s electricity usage. The Guaranty will assist DCE in providing increased rate certainty for its customers, whereas failure to approve the Guaranty could lead to increased rates and higher cost of electricity for Palm Springs customers, including the City of Palm Springs.

REVIEWED BY:

Department Director:	Lindsey-Paige McCloy
Deputy City Manager:	Flinn Fagg
City Attorney:	Jeffrey S. Ballinger
City Manager:	Scott Stiles

ATTACHMENTS:

- A. Draft Guaranty by City of Palm Springs
- B. Draft Resolution

ATTACHMENT A

GUARANTY

This guaranty, as may be amended from time to time in accordance with its terms, (the “Guaranty”) is made effective as of December 29, 2023 (the (“Effective Date”) by the **City of Palm Springs** (the “Guarantor”) in favor of **The Energy Authority, Inc.** (the “Beneficiary”).

WHEREAS, **Desert Community Energy** (“Company”) is a joint powers authority that serves energy to commercial and residential customers within the boundaries of Guarantor and Guarantor is a member of Company; and

WHEREAS, the Beneficiary and Company are parties to that certain **Resource Management Agreement** dated as of January 22, 2018 (the “RMA”); and

WHEREAS, Guarantor acknowledges that it will benefit directly or indirectly from the transactions made pursuant to the RMA (the “Client Transactions”); and

WHEREAS, the Guarantor has agreed to enter into this Guaranty to provide assurance for the payment obligations of Company in connection with the Client Transactions.

NOW, THEREFORE, for good and valuable consideration, the adequacy, receipt and sufficiency of which are hereby acknowledged, and as inducement to the Beneficiary entering into the Client Transactions, the Guarantor hereby agrees as follows:

1. **Guaranty.** The Guarantor hereby unconditionally guarantees the punctual payment when due (subject to written demand in accordance with Section 10 below) of Company’s payment obligations arising under any Client Transactions (the “Guaranteed Obligations”) up to a maximum aggregate liability of Guarantor under this Guaranty in the amount of twenty-five million dollars (\$25,000,000.00) (“Liability Cap”). If Company fails to pay any Guaranteed Obligation when due, Guarantor shall, as an independent obligation, promptly upon receiving notice of such failure from the applicable Beneficiary or its agent, pay such Guaranteed Obligation to such Beneficiary in accordance with the terms and provisions of the Client Transactions and all applicable transaction documents. Notwithstanding anything contained herein to the contrary, any payment made by Guarantor to Beneficiary pursuant to this Guaranty shall reduce the monetary obligation of Guarantor under this Guaranty by the amount of the payment made by Guarantor.

If all or a part of any payment made by Guarantor to Beneficiary hereunder is later determined to have been improper because such amount was not actually owed by Company to Beneficiary under the Client Transactions or such payment was otherwise unjustified or has been successfully disputed by Company in accordance with the terms of the RMA, Beneficiary shall repay such amount to Guarantor within ten (10) business days after the date of the determination of an improper or unjustified payment, together with any interest, reasonable attorneys’ fees, and/or costs of collection, if any, required by the Client Transactions to be paid by Beneficiary in the collection of such amount.

2. **Guaranty of Payment.** The Guarantor's obligations and liability under this Guaranty shall be limited to payment obligations only and the Guarantor shall have no obligation to perform under any Client Transactions, including, without limitation, to sell, deliver, supply or transport gas, electricity or any other commodity. In the event that Company has posted any cash collateral or irrevocable letter of credit with Beneficiary to secure the Client Transactions, Beneficiary will attempt to enforce its rights in such collateral prior to seeking payment from Guarantor. This Guaranty is one of payment and not of collection and shall apply regardless of whether recovery of all such Guaranteed Obligations may be discharged, or uncollectible in any bankruptcy, insolvency, reorganization, liquidation, receivership, or similar proceeding affecting Company or its assets.
3. **Guaranty Unconditional.** The liability of Guarantor under this Guaranty shall be unconditional irrespective of:
 - (a) Any modification, extension or waiver of any of the terms of any Client Transactions;
 - (b) Any change in the time, manner, terms or place of payment of or in any other term of, all or any of the Guaranteed Obligations, or any other amendment or waiver of or any consent to departure from any term or condition of the Client Transactions or any other agreement or instrument executed in connection therewith;
 - (c) Any release or amendment or waiver of or consent to departure from any other guaranty, for all or any of the Guaranteed Obligations;
 - (d) Except as to applicable statutes of limitation, the failure, omission, delay, waiver or refusal by the Beneficiary to exercise, in whole or in part, any right or remedy held by the Beneficiary with respect to any Client Transactions; or
 - (e) Any change in the existence, structure or ownership of the Guarantor or Company, or any bankruptcy, insolvency, reorganization, liquidation, receivership, or similar proceeding affecting Company or its assets.

The obligations of the Guarantor hereunder are several and not joint with Company or any other entity, and are primary obligations for which the Guarantor is the principal obligor.
4. **No Conditions Precedent.** There are no conditions precedent to the enforcement of this Guaranty, except as expressly contained herein. It shall not be necessary for the Beneficiary, in order to enforce payment by the Guarantor under this Guaranty, to exhaust its remedies against Company, any collateral pledged by Company except as set forth in Section 2, any other guarantor, or any other entity liable for the payment or performance of the Guaranteed Obligations.

5. **Waiver.** Guarantor hereby waives:

(a) notice of acceptance of this Guaranty, notice of the creation or existence of any of the Guaranteed Obligations and notice of any action by the Beneficiary in reliance hereon or in connection herewith;

(b) notice of the entry into any Client Transactions between Company and the Beneficiary and notice of any amendments, supplements or modifications thereto;

(c) except as expressly set forth herein, presentment, demand for payment, notice of dishonor or nonpayment, protest and notice of protest or any other notice of any other kind with respect to the Guaranteed Obligations; and

(d) any requirement that suit be brought against, or any other action by the Beneficiary be taken against, or any notice of default or other notice be given to, or any demand be made on, Company or any other entity, or that any other action be taken or not taken as a condition to the Guarantor's liability for the Guaranteed Obligations under this Guaranty or as a condition to the enforcement of this Guaranty against the Guarantor.

6. **Bankruptcy and Other Actions.** Guarantor shall reimburse Beneficiary for all sums paid to Beneficiary by Company with respect to such Guaranteed Obligations which Beneficiary is subsequently required by a final ruling of a court of competent jurisdiction to return to Company or a representative of Company's creditors as a result of Company's bankruptcy, insolvency, reorganization, liquidation, receivership, or similar proceeding. Without limiting Guarantor's own defenses and rights hereunder, Guarantor reserves to itself all rights, setoffs, counterclaims and other defenses to which Company is or may be entitled to arising from or out of the Client Transactions, except as limited herein and except for defenses arising out of the bankruptcy, insolvency, reorganization, liquidation, receivership, or similar proceeding affecting Company or its assets.

7. **Reinstatement.** This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any Guaranteed Obligation is rescinded or must otherwise be returned by a Beneficiary upon the insolvency, bankruptcy or reorganization of Company or otherwise, all as though the payment had not been made.

8. **Subrogation.** The Guarantor shall be subrogated to all rights of the Beneficiary against Company in respect of any amounts paid by the Guarantor pursuant to the Guaranty, provided that the Guarantor waives any rights it may acquire by way of subrogation under this Guaranty, by any payment made hereunder or otherwise (including, without limitation, any statutory rights of subrogation under Section 509 of the Bankruptcy Code, 11 U.S.C. §509, or otherwise), reimbursement, exoneration, contribution, indemnification, or any right to participate in any claim or remedy of the Beneficiary against Company or any collateral which the Beneficiary now has or acquires, until all of the Guaranteed Obligations shall have been irrevocably paid to the Beneficiary in full. If (a) the Guarantor shall perform and shall make payment to the Beneficiary of all or any part of the Guaranteed Obligations and (b) all the Guaranteed Obligations shall have been paid in full, the Beneficiary shall, at the Guarantor's request, execute and deliver to the Guarantor

appropriate documents necessary to evidence the transfer by subrogation to the Guarantor of any interest in the Guaranteed Obligations resulting from such payment by the Guarantor.

9. **Notices.** All demands, notices and other communications provided for hereunder shall, unless otherwise specifically provided herein, (a) be in writing addressed to the party receiving the notice at the address set forth below or at such other address as may be designated by written notice, from time to time, to the other party, and (b) be effective upon delivery, when sent by commercial overnight courier, or personally delivered. Notices shall be sent to the following addresses:

If to Beneficiary:

The Energy Authority, Inc.

Attn: Legal Department
1301 Riverplace Blvd., Suite 2700
Jacksonville, FL 32207
Phone: (904) 356-3900
Fax: (904) 665-0314

If to Guarantor:

City of Palm Springs

Attention: City Manager / City Clerk
3200 E. Tahquitz Canyon Way
Palm Springs, California 92262

10. **Demand and Payment.** Beneficiary is not entitled to make demand upon Guarantor until a default occurs in payment of any Guaranteed Obligations by Company to Beneficiary. Any demand by the Beneficiary for payment hereunder shall be in writing, reference this Guaranty, reference the Guaranteed Obligations, be signed by a duly authorized representative of the Beneficiary and be delivered to the Guarantor pursuant to Section 9 contained herein. There are no other requirements of notice, presentment or demand. The Guarantor shall pay, or cause to be paid, such Guaranteed Obligations within ten (10) business day of receipt of such demand.
11. **No Waiver; Remedies.** Except as to applicable statutes of limitation, no failure on the part of Beneficiary to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.
12. **Term; Termination.** Unless otherwise extended in writing by the Guarantor, this Guaranty shall continue in full force and effect from the Effective Date until payment-in-full of the Guaranteed Obligations with respect to such Client Transactions have been fully satisfied. Notwithstanding the foregoing, no such expiration or termination of this Guaranty shall (a) affect Guarantor's obligations hereunder with respect to any Client Transactions entered

into prior to such expiration or termination; or (b) prevent reinstatement of this Guaranty with respect to any such Guaranteed Obligations in accordance with Section 7 contained herein.

13. **Assignment; Successors and Assigns.** The Guarantor and the Beneficiary shall not assign its rights hereunder without the prior written consent of the other party, and any assignment without such prior written consent shall be null and void and of no force or effect. This Guaranty shall be binding upon and inure to the benefit of each party hereto and its respective successors and permitted assigns.
14. **Amendments and Waivers.** Subject to Section 12 of this Guaranty, no provision of this Guaranty shall be waived, amended, terminated or supplemented except by a written instrument executed by Guarantor and Beneficiary.
15. **Captions.** The captions in this Guaranty have been inserted for convenience only and shall be given no substantive meaning or significance whatsoever in construing the terms and provisions of this Guaranty.
16. **Representation and Warranties.**

The Guarantor represents and warrants to Beneficiary that, as to Guarantor, the following statements are true, correct and complete on and as of the date hereof:

(a) **Organization and Qualification; Authority; Consents.** Guarantor is a municipal corporation duly organized, validly existing under and operating pursuant to the laws of the State of California and the City Charter of the City of Palm Springs. Guarantor has full right and authority to enter into this Guaranty and to perform each and all of the matters and things herein provided for; and this Guaranty does not, nor does the performance or observance by Guarantor of any of the matters or things herein or therein provided for, contravene any provision of law or any organizational document of Guarantor or any covenant, indenture or agreement of or affecting Guarantor. The execution, delivery, performance and observance by Guarantor of this Guaranty and any other instruments and documents executed by Guarantor in connection with this Guaranty do not and, at the time of delivery hereof, will not require any consent or approval of any other Person, other than such consents and approvals that have been given or obtained.

(b) **Legal Effect.** This Guaranty constitutes a legal, valid and binding agreement of Guarantor, enforceable in accordance with its terms, subject to laws relating to bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and the application of equitable remedies if equitable remedies are sought.

(c) **Litigation.** There is no litigation or governmental proceeding pending, nor to the knowledge of Guarantor threatened in writing, against Guarantor which if adversely determined would result in any material adverse change in the financial condition of Guarantor.

(d) Other Agreements. Guarantor is not in default under the terms of any covenant, indenture or agreement of or affecting Guarantor, which default if uncured would have a material adverse effect on the financial condition of Guarantor.

17. **GOVERNING LAW.** THIS GUARANTY SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS. However, if any provision of this Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Guaranty.
18. **Counterparts.** This Guaranty and any amendments, waivers, consents or supplements may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.
19. **Entire Agreement.** This Guaranty constitutes the entire understanding between Guarantor and Beneficiary with respect to the Guaranteed Obligations and supersedes and replaces in its entirety any and all guaranties previously issued by Guarantor to Beneficiary with respect to the Guaranteed Obligations, or any part of them.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be executed and delivered by its duly authorized representative effective as of the Effective Date.

City of Palm Springs

By: _____
Name: Scott C. Stiles
Title: City Manager

APPROVED AS TO FORM:

By: _____
City Attorney

ATTACHMENT B

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING AN UNCONDITIONAL GUARANTY OF THE ELECTRICITY PROCUREMENT OBLIGATIONS OF DESERT COMMUNITY ENERGY, NOT TO EXCEED \$25 MILLION, UNDER A RESOURCE MANAGEMENT AGREEMENT WITH THE ENERGY AUTHORITY, INC..

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.; and

B. DCE currently provides clean energy for the residents and businesses of the City, which has resulted in a substantial reduction in greenhouse gas emissions within the City; and

C. DCE’s contracts for power procurement and other services under a Resource Management Agreement with The Energy Authority, Inc. (TEA), a non-profit corporation providing wholesale power and portfolio management services to more than 50 public power agencies across the country.

D. DCE’s transactions for the purchase and sale of electricity products not covered by long-term agreements are executed by TEA as principal, using TEA’s counterparty credit and contracts. These purchases are currently guaranteed by two of TEA’s Equity Owners (EOs), who are public power agencies.

E. TEA advised DCE staff that its EOs intend to cease providing guaranties of TEA’s purchases of electricity products, effective December 29, 2023.

F. DCE has asked the City to provide a guaranty of DCE’s power procurement obligations under the Resource Management Agreement with TEA, not to exceed \$25 million, to replace the expiring guaranties.

G. The City Attorney has reviewed and approved the attached form of Guaranty.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. That the findings and determinations reflected above are true and correct, and are incorporated by this reference herein as the cause and foundation for the action taken by the and through this Resolution.

SECTION 2. The City Council hereby approves the unconditional guaranty of Desert Community Energy's obligations to The Energy Authority, Inc. for purchases of electricity products under the Resource Management Agreement with TEA in an amount not to exceed \$25,000,000 and agrees that the City of Palm Springs will be liable to TEA for the payment of all amounts due to TEA in connection with purchases of electricity products upon the occurrence of an event of default by DCE with respect to its obligations under the Resource Management Agreement with TEA.

SECTION 3. The City Manager is hereby authorized to finalize and execute the Guaranty, with the advice of the City Attorney, in substantially the form which is attached to this resolution.

SECTION 4. This Resolution will become effective immediately upon adoption and remain effective unless superseded by a subsequent resolution.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 14TH DAY OF DECEMBER, 2023.

SCOTT STILES
CITY MANAGER

ATTEST:

BRENDA FREE, MMC
CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, BRENA PREE, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy as was duly adopted at a regular meeting of the City Council of the City of Palm Springs on December 14, 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Palm Springs, California, this _____ day of _____, _____.

BRENDA PREE, MMC
CITY CLERK

Amendment No. 2 to Resource Management Agreement

This Amendment No. 2 (this “Amendment”), effective as of December 29, 2023 (the “Amendment No. 2 Effective Date”), is made part of the Resource Management Agreement between The Energy Authority, Inc. (“TEA”) and Desert Community Energy (“DCE”) dated January 22, 2018 and amended November 11, 2019 (the “RMA,” and collectively with all prior amendments to the RMA, the “Agreement”) and is subject to all terms and conditions of the Agreement except as otherwise provided herein. TEA and DCE are sometimes referred to herein individually as a “Party,” or collectively as the “Parties.” Capitalized terms used in this Amendment No. 2 and not defined herein shall have the meanings assigned to such terms in the Agreement.

Recitals

WHEREAS, the Parties have previously entered into the Agreement; and

WHEREAS, the Parties wish to amend the Agreement as provided herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

Terms and Conditions

1. Agreement Incorporated.

Except as modified by this Amendment No. 2, the terms and conditions of the Agreement are incorporated by reference as of the Amendment 2 Effective Date, and this Amendment No. 2 is made part of the Agreement.

2. Amendments.

Pursuant to this Amendment No. 2, certain terms and conditions of the Agreement are hereby modified and amended as follows:

- A. The Parties agree that TEA, and their approved subcontractors (if any) shall perform Services under Task Order 2. All references to “Core Team” are hereby deleted.
- B. **Section 3.1 (“Term and Effective Date”)**: The Initial Term as defined under Section 3.1 of the Agreement is hereby extended for an additional four (4) years, resulting in an Agreement expiration date of January 22, 2027.
- C. **Section 9 (“Notices”)** is hereby deleted in its entirety and replaced with the following:

“9. Notices.

Except as otherwise indicated in a Task Order, any notices, requests, demands or other communications required to be given shall be in writing

and shall be deemed to have been duly given if (i) by hand or personal delivery, on the date of such delivery, (ii) by nationally recognized overnight courier (such as FedEx or UPS), on the next business day following deposit for next business day delivery, (iii) by certified U.S. mail, return receipt requested with postage pre-paid, on the fifth business day following deposit, or (iv) by electronic mail, on the transmission date if sent (without failure or bounce-back) before 5:00 p.m. (prevailing time at recipient's location) on a business day or, in any other case, on the next business day. In each case, such notice shall be addressed to the Party to whom the notice is being provided at the addresses below, or such other address as may be provided to the other Party in accordance with this Section 9.

If to DCE: Desert Community Energy
74199 El Paseo Drive, Suite 100
Palm Desert, CA 92260
Attention: Tom Kirk, Executive Director
E-mail: tkirk@cvag.org

If to TEA: The Energy Authority, Inc.
1301 Riverplace Boulevard, Suite 2700
Jacksonville, Florida 32207
Attention: Legal Department
E-mail: legal@teainc.org

D. **Section 11 (“Billing and Payments”)** is hereby deleted in its entirety and replaced with the following:

“11.1 On or before the fifth business day of each month, TEA shall provide DCE with an invoice for the immediately preceding month's activity of Trading Products and Compensation due TEA and any other amounts to be paid by one Party to the other Party pursuant to this Agreement.

11.2 The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other as of the due date through netting, in which case all amounts owed by one Party to the other Party on the due date incurred pursuant to this Agreement during the monthly billing period, including interest, and payments or credits, (i) for purchase and sale transactions under separate agreements, if any, and (ii) Compensation and any other

obligations incurred pursuant to this Agreement shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it to the other Party.

- 11.3 If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, that Party shall pay such sum in full when due.
- 11.4 If an amount is due DCE, TEA will remit this amount to DCE by the 25th of each month in immediately available funds.
- 11.5 If an amount is due TEA, DCE will remit this amount to TEA by the 15th of each month in immediately available funds.
- 11.6 Payment on invoices issued pursuant to Section 11.1 for Compensation and any other obligations incurred pursuant to this Agreement that is not received by the due date and not subject to dispute pursuant to Section 11.8, shall be considered overdue. Interest shall accrue on any unpaid amounts as of the day after the due date at a rate equal to the prime interest rate published from time to time in the Wall Street Journal plus 200 basis points (the “Interest Rate”). Notwithstanding the netting provisions of Section 11.2 or the provisions of this Section 11.6, non-payment of amounts owed for purchase and sale transactions under separate agreements as described in Section 6.7, if any, shall be governed by the provisions of the trading agreement under which such transactions are executed.
- 11.7 Payments made under this Agreement shall be made by Automated Clearing House (“ACH”) or wire transfer in United States Dollars based on the banking information provided by each Party to the other Party. Such account information may be amended by providing the other Party written notice.
- 11.8 In the event that any portion of any invoice pursuant to this Agreement is in dispute, the undisputed amount shall be paid when due and payment may be withheld on the disputed amount. DCE shall notify TEA in writing of the protest of the disputed amount. TEA must receive DCE’s written protest by the due date of the invoice. Upon determination of the correct billing amount, if the disputed amount is found owing, it shall promptly be paid after such determination together with interest as calculated above. Disputed amounts that are not resolved by mutual agreement of the Parties may be submitted to dispute resolution pursuant to Section 26.
- 11.9 If the Parties are each required to pay an amount incurred pursuant to this Agreement in the same billing period, then such amounts with respect to each Party may be aggregated and the Parties may discharge their obligations to pay

through netting, in which case the Party, if any, owing the greater amount shall pay to the other Party the difference between the amounts owed.”

- E. **Section 12 (“Reserve Account”)** is hereby deleted in its entirety and replaced with the following:

“**Section 12. Credit Support.** DCE agrees to provide credit enhancement to support DCE-specific transactions executed by TEA as principal in the transaction, as more particularly described in each relevant Task Order. In the event that DCE is unable to provide such requested credit enhancement, TEA shall have no obligation to proceed with any transaction in regard to which the enhancement is required. To the extent that DCE prefers to enter directly into a contract with a counterparty, TEA may execute such transaction as DCE’s agent, provided the counterparty’s credit requirements are met by DCE. In any such case, DCE becomes the principal to the transaction with the counterparty and the counterparty relies on DCE’s credit.”

3. General.

A. **Headings.** Headings or captions contained in this Amendment No. 2 are solely for the convenience of the Parties and shall not affect the construction or interpretation of any of the provisions of this Amendment No. 2.

B. **Amendment.** Except as otherwise modified by this Amendment No. 2, the remaining terms of Task Order 2 are in full force and effect. This Amendment No. 2 may be amended by an instrument in writing signed by an authorized representative of each Party.

C. **Counterparts and Electronic Signatures.** This Amendment No. 2 may be executed in counterparts, each of which shall constitute an original, but all of which shall constitute one agreement. Electronic signatures of authorized representatives of the Parties to this Amendment No. 2, in PDF or other mutually acceptable digital formats (e.g., DocuSign or Adobe Sign), shall be deemed originals for all purposes and shall have the same force and effect as manually executed original signatures.

[Signatures appear on following page]

IN WITNESS WHEREOF, this Amendment No. 2 is executed by an authorized representative of each Party.

The Energy Authority, Inc.

Desert Community Energy

By: _____
Name: Joanie C. Teofilo
Title: President and CEO

By: _____
Name: Tom Kirk
Title: Executive Director

Amendment No. 3 to the 2019 Amended and Restated Task Order 2 for Phase III Core Services Between The Energy Authority, Inc. and Desert Community Energy

This Amendment No. 3 (this “Amendment No. 3”), effective as of December 29, 2023 (the “Amendment No. 3 Effective Date”), is made part of the 2019 Amended and Restated Task Order 2 dated November 11, 2019, as amended March 17, 2021 and September 27, 2021 (collectively, “Task Order 2”), pursuant to a Resource Management Agreement dated January 22, 2018, as amended November 11, 2019 (the “RMA” and collectively with all prior amendments to the RMA, the “Agreement”), between The Energy Authority, Inc. (“TEA”) and Desert Community Energy (“DCE”). TEA and DCE are sometimes referred to herein individually as a “Party,” or collectively as the “Parties.” Capitalized terms used in this Amendment No. 3 and not defined herein shall have the meanings assigned to such terms in the Agreement.

Recitals

WHEREAS, the Parties have previously entered into the Task Order 2,

WHEREAS, the Parties wish to amend the Task Order 2 as provided herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

Terms and Conditions

1. Agreement Incorporated.

Except as modified by this Amendment No. 3, the terms and conditions of the Task Order 2 and the Agreement are incorporated by reference as of the Amendment 3 Effective Date, and this Amendment No. 3 is made part of the Task Order 2 and the Agreement.

2. Amendments.

Pursuant to this Amendment No. 3, certain terms and conditions of the Task Order 2 are hereby modified and amended as follows:

A. The Parties agree that TEA, and TEA’s approved subcontractors (if any) shall perform Services under Task Order 2. All references to “Core Team” are hereby deleted.

B. **Section 2 (Credit Support)** is hereby deleted in its entirety and replaced with the following:

“During the Term of Task Order 2, DCE will acquire and provide credit support for power Transactions, ancillary services, and related attributes made by TEA on behalf of DCE (“Credit Support”). Such Credit Support shall be subject to TEA’s approval, which shall not be unreasonably withheld.

- C. **Section 2.1 (“Lock-Box Pledge Account”)**, including Exhibit “A” (the “Control Agreement”) and the Operating Funding Targets described in Schedule “A” are hereby deleted in their entirety.
- D. **Section 2.2 (“Reserve Account”)**, including Exhibit “B” (the “Reserve Control Agreement”) is hereby deleted in its entirety.
- E. **Section 2.4 (“CRR Solution”)**. The Interim Period as defined under this Section shall be amended to cover the time period beginning September 27, 2021, and extending through and including February 29, 2024.
- F. **Section 4.1.2 (“Credit Solution”)** is hereby deleted in its entirety.
- G. **Section 4.1.6 (“DCE Power Obligations”)** is hereby deleted in its entirety and replaced with the following:
- “DCE’s obligations to pay TEA for power procurement on behalf of DCE (“Power Obligations”) are separate from fees owed to TEA for TEA’s Services. During the term of the RMA and this Task Order 2, compensation and Phase III Fees owed to TEA, excluding Power Obligations, will be adjusted on an annual basis by the greater of (i) three percent (3.0%) or (ii) the U.S. Government Consumer Price Index for All Urban Consumers (the “CPI-U”) beginning on the second anniversary of the RMA Effective Date.”
- H. **Section 7.1 (“CAISO Settlement, Billing, and Payments”)** is hereby deleted in its entirety and replaced with the following:
- “TEA shall provide services as Scheduling Coordinator (“SC”) representing DCE in CAISO. TEA shall provide DCE with a statement of CAISO settlement activities on a regular basis in coordination with CAISO’s settlement calendar (i.e., currently weekly). Additionally, each month TEA shall provide DCE with an aggregate or estimate of DCE Transactions based on available information from CAISO. For Transactions executed by TEA as principal in the Transaction for DCE’s account within CAISO, DCE shall owe TEA for the Transactions, and TEA shall make weekly payments to CAISO in a timely manner contingent upon the following:
- (1) DCE shall make payment to TEA at least one (1) business day in advance of TEA’s weekly payment to CAISO for CAISO Transactions made on behalf of DCE (the “CAISO Payments”). The CAISO Payments will reflect actual weekly CAISO Transactions based on CAISO settlement invoices; and
 - (2) Provided DCE is current on all amounts and obligations owed to TEA, then TEA will return to DCE any funds received from CAISO on behalf of DCE (hereinafter, “CAISO Credits”) either within two (2) business days of receipt, or if preferred, apply such CAISO Credits as a credit on the following weekly invoice(s) with respect to the CAISO Payments due from DCE. In the event that a Late Payment (as defined below) has occurred, then TEA will automatically retain any amounts of CAISO

Credits to apply to future payments owed by TEA to CAISO on behalf of DCE.

TEA shall validate CAISO invoices based on a review of actual CAISO charges. TEA will verify that the charges/revenues applied by CAISO are accurate and will also provide DCE with a description of the charge types and how they are applied to DCE's schedules and metered volumes. In addition, TEA will review the settlement statements for all power supply agreements executed by DCE to ensure that they are consistent with DCE's scheduled and metered volumes. For bilateral transactions, TEA will review settlement statements provided by DCE's counterparties for accuracy and coordinate with them to resolve discrepancies. Should TEA and DCE elect to dispute a CAISO invoice amount, such dispute shall be in accordance with Section 1.2.5 of this Task Order 2.

If DCE fails to make, when due, any CAISO Payments to TEA as required under this Task Order 2 (a "Late Payment"), and if such failure is not remedied within two (2) business days after written notice, then TEA may request and DCE shall post with TEA sufficient cash or collateral acceptable to TEA to adequately cover all credit exposure with CAISO ("Performance Assurance") and provide ongoing credit verification, as necessary for TEA to continue performing CAISO Transactions on behalf of DCE. Upon a second event of Late Payment, TEA may immediately request, and DCE shall post with TEA, such Performance Assurance and provide ongoing credit verification. This Section does not preclude any other remedies available to the Parties under the Agreement."

- I. **Section 7.2 ("Direct DCE Counterparties")** is hereby deleted in its entirety.
- J. **Section 7.3 ("Physical Bilateral Power Transactions with TEA as Principal in the Transactions")** is hereby deleted in its entirety.
- K. **Section 7.7(b)** is hereby deleted in its entirety. The remainder of Section 7.7 is in full force and effect.

3. General.

A. **Headings.** Headings or captions contained in this Amendment No. 3 are solely for the convenience of the Parties and shall not affect the construction or interpretation of any of the provisions of this Amendment No. 3.

B. **Amendment.** This Amendment No. 3 may be amended by an instrument in writing signed by an authorized representative of each Party.

C. **Counterparts and Electronic Signatures.** This Amendment No. 3 may be executed in counterparts, each of which shall constitute an original, but all of which shall

constitute one agreement. Electronic signatures of authorized representatives of the Parties to this Amendment No. 3, in PDF or other mutually acceptable digital formats (e.g., DocuSign or Adobe Sign), shall be deemed originals for all purposes and shall have the same force and effect as manually executed original signatures.

[Signatures appear on following page]

IN WITNESS WHEREOF, this Amendment No. 3 is executed by an authorized representative of each Party.

The Energy Authority, Inc.

Desert Community Energy

By: _____
Name: Joanie C. Teofilo
Title: President and CEO

By: _____
Name: Tom Kirk
Title: Executive Director

ITEM 7B

Desert Community Energy Board January 8, 2024



STAFF REPORT

Subject: **Update on Enterprise Resource Planning (ERP) System Selection**

Contact: Allen McMillen, Contracts Analyst II (amcmillen@cvag.org)

Recommendation: Information

Background: DCE contracts with the Coachella Valley Association of Governments (CVAG) to provide staffing and administrative support. This year, both agencies are making a significant investment in upgrading its financial systems to a new Enterprise Resource Planning (ERP) system. At the January 2024 meeting, the Board will receive an update on the systematic transition and a preview of the improvements that are anticipated to roll out in the coming year.

An ERP system is an agency-wide system that helps automate and manage business processes across finance, human resources and general operations. The new ERP system will be implemented to provide financial systems operational benefits to CVAG, DCE, as well as for the Coachella Valley Conservation Commission (CVCC), which also has a staffing agreement with CVAG. The main financial system currently used by DCE is Intuit's QuickBooks Pro. The new ERP system will provide more robust capabilities and allow DCE staff to be more efficient by providing real-time data and be more responsive in financial reporting to the Board.

At its April 2023 meeting, the CVAG Executive Committee authorized the Executive Director to execute a services contract with BerryDunn to launch the first phase of the ERP transition. BerryDunn was one of six firms that responded to CVAG's request for proposals for a consultant to assist CVAG in the selection of an ERP system. BerryDunn is an independent management and IT consulting firm, headquartered in Portland, Maine with nine office locations nationally and staffing for the engagement is proposed from their regional office in Phoenix.

BerryDunn is assisting CVAG in shaping the vision and timeline of the ERP procurement implementation as well as to assist in project management and chart of accounts revamp, needs assessment and gap analysis, organizational change management, vendor evaluation, shortlist and selection through final contract negotiations.

In June 2023, CVAG and BerryDunn commenced the ERP selection project with a formal agencywide kick-off and fact-finding meetings resulting in the development of a Needs Assessment and Gap-Analysis report paving the way for the completion of documenting functional and technical requirements and the development of a Request for Proposals (RFP) for the Software Selection and Implementation of an ERP System Solution.

The RFP was issued on October 30, 2023, and three responsive vendor proposals were received by the submission deadline on December 15, 2023. They are currently being reviewed by the evaluation committee, which includes CVAG Finance Committee Chair Raymond Gregory, CVAG staff and the BerryDunn team. It is expected that the shortlist of vendors will be invited to conduct remote software demonstrations during the first two weeks of February. Following an additional review, including

consideration of costs, staff will be presenting a recommendation for the ERP solution vendor to CVAG's committees for approval in the spring of 2024.

Fiscal Analysis: There is no additional cost for this update.

The DCE Fiscal Year 2023/24 Annual Budget approved by the Board in June 2023 factored in an investment in the ERP system through CVAG's procurement and implementation, which DCE will be able to benefit from and use as well. The upfront costs and investment in an ERP system include many one-time costs such as ERP selection and implementation consultants as well as backfill for certain staff managing the project.

The budget direct costs for FY 2023/24 and FY 2024/25 will remain relatively high; and once the implementation is complete, the annual costs are likely to decrease for FY 2025/26.

Attachments: ERP Project Schedule

CVAG ERP Selection Services

ID	Task Name	Duration	Start	Finish	% Complete
1	PHASE 1.0: PROJECT PLANNING AND ONGOING PROJECT MANAGEMENT	187 days	Wed 05/24/23	Thu 02/08/24	76%
2	1.0.1 Conduct initial project planning and facilitate a project planning teleconference with the CVAG's	1 day	Wed 05/24/23	Wed 05/24/23	100%
3	1.0.2 Develop a draft Project Work Plan and Schedule and review with CVAG's project team via teleconference to update to final.	8 days	Thu 05/25/23	Mon 06/05/23	100%
4	Deliverable 1 - Project Work Plan and Schedule	0 days	Mon 06/05/23	Mon 06/05/23	100%
5	1.0.3 Develop Biweekly Status Updates.	186 days	Thu 05/25/23	Thu 02/08/24	100%
6	Deliverable 2 - Biweekly Status Updates	186 days	Thu 05/25/23	Thu 02/08/24	50%
7	PHASE 1.1: NEEDS ASSESSMENT/GAP ANALYSIS AND REQUIREMENTS DEFINITION	72 days	Thu 06/01/23	Fri 09/08/23	100%
8	1.1.1 Develop and issue a web survey and an information request, and review the results.	7 days	Thu 06/01/23	Fri 06/09/23	100%
9	1.1.2 Facilitate a kickoff presentation.	1 day	Tue 06/13/23	Tue 06/13/23	100%
10	1.1.3 Facilitate fact-finding meetings.	4 days	Tue 06/13/23	Fri 06/16/23	100%
11	1.1.4 Develop a Needs Assessment/Gap Analysis Report.	30 days	Mon 06/19/23	Fri 07/28/23	100%
12	Deliverable 3 - Needs Assessment/Gap Analysis Report	0 days	Fri 07/28/23	Fri 07/28/23	100%
13	1.1.5 Develop Preliminary Functional and Technical Requirements.	7 days	Tue 08/15/23	Wed 08/23/23	100%
14	Deliverable 4 - Preliminary Functional and Technical Requirements	0 days	Wed 08/23/23	Wed 08/23/23	100%
15	1.1.6 Facilitate joint requirements planning (JRP) work sessions.	4 days	Thu 08/31/23	Tue 09/05/23	100%
16	Deliverable 5 - Final Functional and Technical Requirements	1 day	Fri 09/08/23	Fri 09/08/23	100%
17	PHASE 1.2: RFP DEVELOPMENT	178 days?	Mon 07/10/23	Wed 03/13/24	74%
18	1.2.1 Develop an RFP Package.	71 days	Mon 07/10/23	Mon 10/16/23	100%
19	1.2.1.2 CVAG Staff to Review RFP Package (all staff reviewing all formatted attachments/sections - feedback between procurement and BerryDunn before Final Review) Kate & Allen/Claude	33 days	Wed 08/23/23	Fri 10/06/23	100%
20	1.2.1.3 Compilation of RFP Documents for Final Review (all attachments will be compiled together for Final review of RFP Package prior to posting)	5 days	Mon 10/09/23	Fri 10/13/23	100%
21	1.2.1.4 CVAG Project Team to Review Final RFP Package prior to posting	3 days	Mon 10/16/23	Wed 10/18/23	100%
22	1.2.1.5 CVAG Executive Team to Review Final RFP Package prior to posting	5 days	Thu 10/19/23	Wed 10/25/23	100%
23	1.2.1.6 CVAG Project Team make final updates prior to posting Final RFP Package	2 days	Thu 10/26/23	Fri 10/27/23	100%
24	1.2.1.7 CVAG to Post Final (See 1.2.4 and 1.2.10)	1 day	Mon 10/30/23	Mon 10/30/23	100%
25	Deliverable 6 - RFP Packages	0 days	Fri 10/27/23	Fri 10/27/23	100%
26	1.2.2 BD Assist with responding to vendor questions and developing addenda.	35 days	Mon 10/30/23	Fri 12/15/23	100%
27	1.2.3 BD Assist with facilitating a vendor pre- and post proposal conference and activity	10 days	Mon 11/13/23	Fri 11/24/23	100%
28	1.2.4 Conduct pre-proposal conference meeting (in collaboration with CVAG) - Confirm date	1 day	Wed 11/15/23	Wed 11/15/23	100%
29	1.2.5 Deadline for vendor proposal submissions to CVAG	1 day?	Fri 12/15/23	Fri 12/15/23	100%

CVAG ERP Selection Services

ID	Task Name	Duration	Start	Finish	% Complete
30	1.2.6 BD Perform an initial completion review of vendor proposals received, identify initial items for clarification, and develop a Proposal Executive Summary Memo. (Analysis)	10 days	Mon 12/18/23	Fri 12/29/23	0%
31	1.2.7 CVAG staff to review Proposal Executive Summary Analysis and Vendor Proposal submissions prior to Round 1 scoring meeting.	5 days	Mon 01/08/24	Fri 01/12/24	0%
32	1.2.8 BD Facilitate Round 1 scoring and ranking meeting to identify short-listed vendors and items needing clarification.	1 day	Tue 01/16/24	Tue 01/16/24	0%
33	Deliverable 7 - Proposal Executive Summary Memo and Short-List Identification	0 days	Tue 01/16/24	Tue 01/16/24	0%
34	1.2.9.1 BD to deliver v1 sample demonstration scripts for CVAG review	0 days	Mon 12/04/23	Mon 12/04/23	100%
35	1.2.9.2 CVAG staff to review v1 sample demonstration scripts and provide feedback to BD	5 days	Tue 12/05/23	Mon 12/11/23	100%
36	1.2.9.3 BD to deliver v2 sample demonstration scripts for CVAG review - delivered to CVAG early	4 days	Tue 12/12/23	Fri 12/15/23	100%
37	1.2.9.4 CVAG staff to review v2 sample demonstration scripts and provide feedback to BD	13 days	Mon 12/18/23	Wed 01/03/24	0%
38	1.2.9.5 BD to deliver Final demonstration scripts for CVAG review	5 days	Thu 01/04/24	Wed 01/10/24	0%
39	1.2.9.6 CVAG staff to review Final demonstration scripts and provide feedback to BD	5 days	Thu 01/11/24	Wed 01/17/24	0%
40	1.2.9.7 BD Assist CVAG project team in planning for demonstrations and finalizing demonstration scripts. (Must be delivered to vendors 2 weeks prior to demonstrations.)	2 days	Thu 01/18/24	Fri 01/19/24	0%
41	1.2.10.1 BD Facilitate Week 1 vendor demonstrations. (Needs to be firm dates in RFP)	5 days	Mon 02/05/24	Fri 02/09/24	0%
42	1.2.10.2 BD Facilitate Week 2 vendor demonstrations. (Needs to be firm dates in RFP)	3 days	Mon 02/12/24	Wed 02/14/24	0%
43	1.2.11 BD Facilitate Round 2 scoring meetings to identify preferred vendors.	1 day	Tue 02/20/24	Tue 02/20/24	0%
44	1.2.12 BD Assist in planning for reference checks and site visits.	10 days	Wed 02/21/24	Tue 03/05/24	0%
45	1.2.13 BD Facilitate a Final Scoring meeting.	1 day	Wed 03/13/24	Wed 03/13/24	0%
46	Deliverable 8 - Preferred Vendor Identification	0 days	Wed 03/13/24	Wed 03/13/24	0%
47	PHASE 1.3: CONTRACT NEGOTIATIONS AND APPROVAL	58 days?	Thu 03/14/24	Mon 06/03/24	0%
48	1.3.1.1 BD Support CVAG in the contract negotiation process with its preferred vendor.	33 days	Thu 03/14/24	Mon 04/29/24	0%
49	1.3.1.2 BD create presentation for process arriving at preferred vendor to CVAG for review	10 days	Tue 04/30/24	Mon 05/13/24	0%
50	1.3.1.3 BD updates to presentation for process arriving at preferred vendor to CVAG final version due	1 day?	Tue 05/14/24	Tue 05/14/24	0%
51	1.3.1.4 BD Support CVAG with presentation to Finance Committee for contract approval	1 day	Wed 05/15/24	Wed 05/15/24	0%
52	1.3.1.5 BD Support CVAG with presentation to Executive Committee for contract approval	2 days	Fri 05/31/24	Mon 06/03/24	0%
53	Deliverable 9 - Contract Negotiations and Approval Assistance	0 days	Mon 06/03/24	Mon 06/03/24	0%

ITEM 7C

Desert Community Energy Board January 8, 2024



STAFF REPORT

Subject: Carbon Free Business Recognition Program

Contact: Emily Langenbahn, Management Analyst (elangenbahn@cvag.org)

Recommendation: Information

Background: In February 2023, the DCE Board was presented with an update on efforts to promote the Carbon Free business recognition program. The concept of the program had been considered by the Board since DCE's launch in 2020 as a way to acknowledge small, medium, and large commercial customers enrolled in DCE's Carbon Free program for doing their part for the environment.

Among the goals DCE staff are focusing on for the recognition program:

- Encouraging Palm Springs businesses, including hotels, that opted down to DCE's Desert Saver program to opt back up to the Carbon Free program;
- Motivating these businesses and hotels as well as those remaining enrolled in the Carbon Free program to implement more energy efficiency and renewable measures to mitigate climate change impacts; and
- Developing and fostering opportunities to become a green destination for Coachella Valley visitors.

DCE staff has been working with DCE's marketing consultant Burke Rix Communications to launch the program. Based on practices by other Community Choice Aggregation programs (CCAs), the DCE team focused on working with business community leaders to showcase carbon-free businesses on websites and social marketing, including cross-promotion with businesses that have their own marketing strategies.

With this update, DCE staff is excited to announce that Burke Rix has completed production of a series of videos. They will be featured on DCE's social media channels and website starting in January 2024. DCE will promote a different Carbon Free business each month, and will continue reaching out to customers to be featured in this recognition program.

Additionally, there is an introductory video using compilation clips narrated by DCE Chair Lisa Middleton. This video will be highlighted on DCE's Carbon Free Business Recognition Program web page, which also is launching in January.

Fiscal Analysis: The costs associated with developing the Carbon Free Recognition Program are covered under the existing Burke Rix contract and staff time. This includes the costs of social media promotions, which are expected to be about \$500 each month.

ITEM 8A

DESERT COMMUNITY ENERGY BOARD
FY2023-2024 ATTENDANCE RECORD

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

Absent

No Meeting

*

Desert Community Energy
Unaudited Statement of Net Position Prev Year Comparison
As of October 31, 2023

	<u>Oct 31, 23</u>	<u>Oct 31, 22</u>	<u>\$ Change</u>	<u>% Change</u>
ASSETS				
Current Assets				
Checking/Savings				
1100 · Unrestricted Funds				
1105 · Operating Account -8099	199,749	200,000	(251)	(0%)
1109 · DDM Marketplace Sweep - 0991	8,827,442	60,624	8,766,818	14,461%
1115 · Lockbox -4446	8,024,856	-	8,024,856	100%
Total 1100 · Unrestricted Funds	<u>17,052,047</u>	<u>260,624</u>	<u>16,791,423</u>	<u>6,443%</u>
1199 · Restricted Funds				
1110 · Money Market -5470	405,775	2,085,798	(1,680,023)	(81%)
1120 · FSR Letter of Credit Collateral	147,000	147,000	-	0%
Total 1199 · Restricted Funds	<u>552,775</u>	<u>2,232,798</u>	<u>(1,680,023)</u>	<u>(75%)</u>
Total Checking/Savings	<u>17,604,822</u>	<u>2,493,422</u>	<u>15,111,400</u>	<u>606%</u>
Accounts Receivable				
1221 · Accounts Receivable	16,402,662	13,155,544	3,247,118	25%
1223 · Accrued Accounts Receivable	3,891,611	2,978,735	912,876	31%
Total Accounts Receivable	<u>20,294,273</u>	<u>16,134,279</u>	<u>4,159,994</u>	<u>26%</u>
Other Current Assets				
1225 · Allowance for Doubtful Accounts	(4,182,318)	(2,685,330)	(1,496,988)	(56%)
1240 · Prepaid Expenses	6,096	5,893	203	3%
Total Other Current Assets	<u>(4,176,222)</u>	<u>(2,679,437)</u>	<u>(1,496,785)</u>	<u>(56%)</u>
Total Current Assets	<u>33,722,873</u>	<u>15,948,264</u>	<u>17,774,609</u>	<u>111%</u>
Other Assets				
1170 · Deposits/Bonds	610,584	110,584	500,000	452%
Total Other Assets	<u>610,584</u>	<u>110,584</u>	<u>500,000</u>	<u>452%</u>
TOTAL ASSETS	<u>34,333,457</u>	<u>16,058,848</u>	<u>18,274,609</u>	<u>114%</u>
LIABILITIES & NET POSITION				
Liabilities				
Current Liabilities				
Accounts Payable				
2110 · Accounts Payable	4,801,518	2,734,782	2,066,736	76%
2112 · Accrued Accounts Payable	1,405,768	-	1,405,768	100%
2120 · Due to Other Governments	544,613	268,106	276,507	103%
Total Accounts Payable	<u>6,751,899</u>	<u>3,002,888</u>	<u>3,749,011</u>	<u>125%</u>
Other Current Liabilities				
2230 · Taxes payable	197,081	153,278	43,803	29%
Total Other Current Liabilities	<u>197,081</u>	<u>153,278</u>	<u>43,803</u>	<u>29%</u>
Total Current Liabilities	<u>6,948,980</u>	<u>3,156,166</u>	<u>3,792,814</u>	<u>120%</u>
Long Term Liabilities				
2260 · Vendor Security Deposits	405,000	2,085,000	(1,680,000)	(81%)
2300 · Non-current Liability	-	2,625,000	(2,625,000)	(100%)
Total Long Term Liabilities	<u>405,000</u>	<u>4,710,000</u>	<u>(4,305,000)</u>	<u>(91%)</u>
Total Liabilities	<u>7,353,980</u>	<u>7,866,166</u>	<u>(512,186)</u>	<u>(7%)</u>
Net Position				
31000 · Restricted Net Position	147,000	147,000	-	0%
32000 · Unrestricted Net Position	19,167,378	4,724,389	14,442,989	306%
Net Income	7,665,100	3,321,293	4,343,807	131%
Total Net Position	<u>26,979,478</u>	<u>8,192,682</u>	<u>18,786,796</u>	<u>229%</u>
TOTAL LIABILITIES & NET POSITION	<u>34,333,458</u>	<u>16,058,848</u>	<u>18,274,610</u>	<u>114%</u>

¹ 3 months of accruals for delayed SCE invoicing for energy purchases.

Desert Community Energy
Unaudited Changes to Net Position Prev Year Comparison
July through October 2023

	<u>Jul - Oct 23</u>	<u>Jul - Oct 22</u>	<u>\$ Change</u>	<u>% Change</u>
Ordinary Revenue/Expense				
Revenue				
5010 · Electricity Sales				
5011 · Carbon Free	29,273,730	24,397,050	4,876,680	20%
5013 · Desert Saver	7,269,464	5,392,004	1,877,460	35%
Total 5010 · Electricity Sales	<u>36,543,194</u>	<u>29,789,054</u>	<u>6,754,140</u>	<u>23%</u>
5100 · Other Revenue				
5120 · Energy Market Settlements	506,482	617,831	(111,349)	(18%)
5125 · Resouce Adequacy	152	-	152	100%
5150 · Other Revenue	30,768	-	30,768	100%
Total 5100 · Other Revenue	<u>537,402</u>	<u>617,831</u>	<u>(80,429)</u>	<u>(13%)</u>
Total Revenue	<u>37,080,596</u>	<u>30,406,885</u>	<u>6,673,711</u>	<u>22%</u>
Expense				
4100 · Cost of Electricity				
4105 · Electricity Purchase	21,102,855	16,696,451	4,406,404	26%
4110 · Resource Adequacy Settlement	4,264,851	5,116,230	(851,379)	(17%)
4115 · Low Carbon Settlement	(6,267)	-	(6,267)	(100%)
4120 · Renewable Energy Cr. Settlement	-	134,106	(134,106)	(100%)
4125 · Market Charges	2,102,711	3,173,508	(1,070,797)	(34%)
Total 4100 · Cost of Electricity	<u>27,464,150</u>	<u>25,120,295</u>	<u>2,343,855</u>	<u>9%</u>
4200 · Accounting / Bank Services	35	22,896	(22,861)	(100%)
4353 · Insurance	2,863	2,947	(84)	(3%)
4423 · Office Supplies	-	1,200	(1,200)	(100%)
4425 · Legal Services	53,319	38,134	15,185	40%
4431 · Professional Services	31,747	35,465	(3,718)	(10%)
4432 · Consultants	800,115	862,077	(61,962)	(7%)
4433 · Outreach Services	9,404	18,988	(9,584)	(50%)
4435 · Technology Costs (IT)	1,736	1,252	484	39%
4440 · Postage	8,116	9,227	(1,111)	(12%)
4441 · Printing	6,621	9,761	(3,140)	(32%)
4450 · Sponsorships	-	1,603	(1,603)	(100%)
4452 · Marketing	1,678	1,117	561	50%
4500 · Registrations/Memberships	23,736	42,373	(18,637)	(44%)
4750 · Bad Debt Expense	1,096,299	887,282	209,017	24%
Total Expense	<u>29,499,819</u>	<u>27,054,617</u>	<u>2,445,202</u>	<u>9%</u>
Net Ordinary Revenue	<u>7,580,777</u>	<u>3,352,268</u>	<u>4,228,509</u>	<u>126%</u>
Other Revenue/Expense				
Other Revenue				
5900 · Investment Revenue	84,323	4,727	79,596	1,684%
Total Other Revenue	<u>84,323</u>	<u>4,727</u>	<u>79,596</u>	<u>1,684%</u>
Other Expense				
4610 · Interest Expense	-	35,703	(35,703)	(100%)
Total Other Expense	<u>-</u>	<u>35,703</u>	<u>(35,703)</u>	<u>(100%)</u>
Net Other Revenue	<u>84,323</u>	<u>(30,976)</u>	<u>115,299</u>	<u>372%</u>
Net Revenue	<u>7,665,100</u>	<u>3,321,292</u>	<u>4,343,808</u>	<u>131%</u>

Desert Community Energy
Unaudited Changes in Net Position Budget vs. Actual
July through October 2023

	<u>Jul - Oct 23</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
Ordinary Revenue/Expense				
Revenue				
5010 · Electricity Sales				
5011 · Carbon Free	29,273,730	31,786,880	(2,513,150)	92%
5013 · Desert Saver	7,269,464	6,846,232	423,232	106%
Total 5010 · Electricity Sales	<u>36,543,194</u>	<u>38,633,112</u>	<u>(2,089,918)</u>	<u>95%</u>
5100 · Other Revenue				
5120 · Energy Market Settlements	506,482	873,610	(367,128)	58%
5125 · Resouce Adequacy	152	213	(61)	71%
5150 · Other Revenue	30,768	-	30,768	100%
Total 5100 · Other Revenue	<u>537,402</u>	<u>873,823</u>	<u>(336,421)</u>	<u>62%</u>
Total Revenue	<u>37,080,596</u>	<u>39,506,935</u>	<u>(2,426,339)</u>	<u>94%</u>
Expense				
4100 · Cost of Electricity				
4105 · Electricity Purchase	21,102,855	16,700,316	4,402,539	126%
4110 · Resource Adequacy Settlement	4,264,851	5,434,704	(1,169,853)	78%
4115 · Low Carbon Settlement	(6,267)	207,725	(213,992)	(3%)
4120 · Renewable Energy Cr. Settlement	-	74,286	(74,286)	0%
4125 · Market Charges	2,102,711	3,043,436	(940,725)	69%
Total 4100 · Cost of Electricity	<u>27,464,150</u>	<u>25,460,467</u>	<u>2,003,683</u>	<u>108%</u>
4200 · Accounting / Bank Services	35	100	(65)	35%
4353 · Insurance	2,863	3,100	(237)	92%
4425 · Legal Services	53,319	30,000	23,319	178%
4431 · Professional Services	31,747	13,500	18,247	235%
4432 · Consultants	800,115	909,592	(109,477)	88%
4433 · Outreach Services	9,404	12,000	(2,596)	78%
4435 · Technology Costs (IT)	1,736	1,400	336	124%
4440 · Postage	8,116	4,000	4,116	203%
4441 · Printing	6,621	6,000	621	110%
4452 · Marketing	1,678	4,000	(2,322)	42%
4455 · Customer Programs	-	50,000	(50,000)	0%
4500 · Registrations/Memberships	23,736	43,150	(19,414)	55%
4750 · Bad Debt Expense	1,096,299	1,185,207	(88,908)	92%
Total Expense	<u>29,499,819</u>	<u>27,722,516</u>	<u>1,777,303</u>	<u>106%</u>
Net Ordinary Revenue	<u>7,580,777</u>	<u>11,784,419</u>	<u>(4,203,642)</u>	<u>64%</u>
Other Revenue/Expense				
Other Revenue				
5900 · Investment Revenue	84,323	61,015	23,308	138%
Total Other Revenue	<u>84,323</u>	<u>61,015</u>	<u>23,308</u>	<u>138%</u>
Other Expense				
4610 · Interest Expense	-	5,000	(5,000)	0%
Total Other Expense	<u>-</u>	<u>5,000</u>	<u>(5,000)</u>	<u>0%</u>
Net Other Revenue	<u>84,323</u>	<u>56,015</u>	<u>28,308</u>	<u>151%</u>
Net Revenue	<u><u>7,665,100</u></u>	<u><u>11,840,434</u></u>	<u><u>(4,175,334)</u></u>	<u><u>65%</u></u>

ITEM 8C

Desert Community Energy Board January 8, 2024



STAFF REPORT

Subject: January 2024 Rate Adjustment Summary

Contact: Don Dame, DCE Energy Consultant

Recommendation: Information

Background: On November 16, 2020, the DCE Board adopted a Rate Stabilization Schedule (RSS). The RSS authorizes staff to adjust DCE retail rates in response to changes in Southern California Edison (SCE) rates and/or Power Charge Indifference Adjustment (PCIA, or exit fee), to maintain DCE Board-approved rate guidelines.

The RSS became effective on December 1, 2020, and was amended by the Board on May 12, 2023, with a June 1, 2023 effective date. The Board's currently approved rate policies include designing Desert Saver rates within a 0 – 1% average total bill discount versus SCE's comparable bundled base product average total bill and designing DCE's 100% Carbon Free rates such that DCE's primary residential rate class, "Domestic," does not exceed a 14% average total bill premium versus SCE's comparable bundled base product average total bill.

Effective January 1, 2024, SCE implemented a total system average rate increase of approximately 2.2%; and an average residential customer rate increase of approximately 2.0%. SCE's average bundled residential customer bill is estimated to increase approximately \$4.04 monthly, based on average monthly consumption of 569 kWh.¹ For customers enrolled in the California Alternate Rates for Energy (CARE) and Family Electric Rate Assistance (FERA) plans, SCE's average bundled residential customer bill is estimated to increase about \$2.73 monthly inclusive of ongoing CARE/FERA average billing discounts of approximately 30%. As approved by the California Public Utilities Commission (CPUC), SCE's revised rates reflect changes to multiple components of its consolidated revenue requirement.

Working within DCE Board-approved financial policies and procedures, the provisions of DCE's RSS, and the concurrence of DCE's Risk Management Team (RMT), DCE scheduled a corresponding DCE rate adjustment effective January 1, 2024. The DCE rate adjustment is required to maintain fiscal prudence, track SCE rate changes and remain within Board approved rate guidelines.

The RSS requires DCE staff to prepare a summary report describing RSS-related rate adjustments and provide this information at the next scheduled Board meeting after such adjustments are implemented. This staff report provides that summary.

¹ Estimated monthly bill increases were derived from SCE's December 28, 2023, Advice Letter 5178-E, P. 28, Table 9, and adjusting monthly average residential energy usage from 500 kWh to 569 kWh, the average consumption level utilized in SCE's/DCE's Joint Rate Comparison table for DCE's service area effective October 1, 2023.

January 2024 DCE Rate Adjustment Details:

- Effective Date: January 1, 2024
- RMT review and agreement: December 21, 2023.
- Desert Saver average total bill discount compared to SCE's bundled base power product average total bill estimated to be within 0 – 1%.
- 100% Carbon Free residential customer average total bill premium not to exceed approximately 14% compared to SCE's bundled base power product average total bill.
- The rate forecast period utilized is January 1, 2024 –December 31, 2024.
- Calculations and estimates are based on known and forecast costs and revenues throughout the rate forecast period.
- Any particular customer's average bill impact may vary depending on enrolled rate schedule and monthly electricity usage.

Staff continues to work with the California Community Choice Association (CalCCA) and other Community Choice Aggregators (CCAs) to collectively address cost effectiveness, legislative matters and CPUC's actions impacting CCAs. In addition, DCE will continue to highlight DCE's retail product choices as part of its community engagement efforts. DCE's Desert Saver product continues to be the least cost electric service in Palm Springs, and DCE's Carbon Free product results in zero carbon emissions, maximizing electricity-related climate mitigation.

Fiscal Analysis: DCE's January 2024 rate adjustment is designed to fully recover forecast power supply and operating costs, build financial reserves, address cash flow requirements, and exercise fiscal prudence.

SCE customer retail rates increased January 1, 2024, and DCE customer retail rates commensurately adjusted beginning January 1, 2024. The average monthly bill of SCE bundled residential customers will increase about \$1.99 per \$100 usage; DCE Desert Saver residential customer bills will increase about \$1.98 per \$100 usage; and DCE Carbon Free residential customer bills will increase about \$2.27 per \$100 usage.

ITEM 8D

Desert Community Energy Board January 8, 2024



STAFF REPORT

Subject: Solar Opportunities along Indian Canyon Drive

Contact: Emily Langenbahn, Management Analyst (elangenbahn@cvag.org)

Recommendation: Information

Background: At its September meeting, the DCE Board was provided with an update on the Coachella Valley Association of Governments' efforts to address the frequent and prolonged closures of Indian Canyon Drive in north Palm Springs. DCE is among the supporters of the Addressing Climate Change, Emergencies and Sand Storms (ACCESS) project.

On December 7, 2023, the California Transportation Commission (CTC) voted for CVAG to be awarded \$50 million for the project. This program focuses on increasing the climate resiliency and protection of at-threat transportation infrastructure by funding resilience improvements that "withstand one or more elements of a weather event or natural disaster, or to increase the resilience of transportation infrastructure from the impacts of changing conditions, such as flooding and extreme weather events."

The ACCESS – Indian Canyon project includes improvements that protect at-risk transportation infrastructure, increase the community's climate resiliency, enhance mobility, preserve the environment, and improve public health and safety for residents and visitors. The application included two bridges at low-water crossings along the Whitewater River. The ACCESS project also includes a two-mile solar shade structure along an active transportation 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.

DCE staff has 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 of approximately three megawatts.

DCE staff, assisted by DCE's procurement advisors at The Energy Authority (TEA) and legal counsel, is currently identifying mechanisms for the solar shade structures as well as the feasibility of battery storage and wind turbines along or near the project location, with the objective of benefitting DCE's lower-income customers. It is anticipated that the project's environmental documents will be completed by June 2024 and the project will be construction-ready by August 2025.

DCE staff will continue to keep the Board updated on the project's development.

Fiscal Analysis: As noted above, CVAG received \$50 million for its ACCESS – Indian Canyon project, which is the maximum amount that could be requested. The total estimated cost of the project is \$74.9 million. CVAG’s application calls for the solar component to be funded with regional funding, not the LTCAP funding.

The costs associated with evaluating DCE opportunities in connection with the ACCESS – Indian Canyon project are covered under the existing TEA contract and staff time. DCE staff is working closely with TEA and DCE’s legal counsel to determine which opportunities will best allow DCE to meet the state GHG emission reduction goals and Board objectives while balancing fiscal concerns.

Attachment: CVAG’s ACCESS Indian Canyon Drive fact sheet



ACCESS Indian Canyon Drive

Indian Canyon Drive, a regional arterial in the City of Palm Springs, experiences frequent and significant flooding and blowsand events that result in lengthy closures. This roadway provides vital access to the most underserved neighborhoods of Palm Springs, Cathedral City, and Desert Hot Springs and ensures those residents can access employment centers and their homes.

The ACCESS Indian Canyon Drive project is designed to facilitate the flow of water and sand in areas of concentrated flow, decreasing the number of road closures. It will also improve mobility by increasing access to active transportation and rail service. The project promotes sustainability, which is critical as extended droughts and major flood events are becoming even more frequent with climate change. The project creates wildlife corridors that provide interconnectivity for threatened and endangered species. Solar energy generated from the shade structures will benefit the local community.

This multi-benefit project will ensure the most vulnerable groups have access to safe and resilient infrastructure to access essential goods and services critical to their well-being. In fact, 97% of respondents to a CVAG survey stated that they would support building bridges to reduce road closures. Of these, 66% said they use Indian Canyon Drive at least a few times per week.

Phase I is already underway and wholly funded with local funding. The project will reduce road closures and the risks of traveling through this arterial during flood and blowsand events. Disadvantaged communities will gain reliable access to jobs, essential goods and services, and reduce vehicle miles traveled and emissions, improving their quality of life.



The Problem at a Glance

Indian Canyon Drive was closed for **38 days** during the first six months of 2023.

A Facebook Group, *Indian Canyon Dr. & Surrounding Roads Status Group*, has **15.3K members**.

Extreme precipitation events are projected to occur up to **19 times per year** by the end of the century, up dramatically from the current average of 3 times per year.

ACCESS Indian Canyon Drive

Project Cost

Total Project Cost:	\$74.9M
LTCAP Request (Construction Phase):	\$50M

Project Milestones

Environmental Documents	Jun 2024
Construction Ready	Aug 2025



Every Closure...

Disproportionately affects climate-vulnerable, disadvantaged communities, impeding their access to employment, education, medical care, and other services essential to their well-being.

Increases congestion and emissions

Constricts economic activity

Severs the direct lifeline between Interstate 10 and Desert Regional Medical Center, the region's only Level-1 Trauma Center.

Project Scope

Two all-weather bridge systems improve at-grade crossings.

Undercrossings to create a wildlife corridor and benefit the ecosystem for protected and endangered species such as the Coachella Valley fringe-toed lizard.

Two miles of sand fencing connecting to Amtrak's Palm Springs Station which frequently closes due to sand deposits on the roadway and railroad tracks.

Two-mile active transportation pathway with an overcrossing connecting to CV Link, a 40-mile regional multi-modal pathway.

Solar-shaded pathway generating 3 megawatts to advance California's climate goals.

ITEM 8E

Desert Community Energy Board
January 8, 2024



STAFF REPORT

Subject: Pursuit of DCE's Investment Grade Credit Rating

Contact: Claude T. Kilgore, Director of Finance (ckilgore@cvaq.org)

Recommendation: Information

Background: DCE has demonstrated financial growth and a commitment to sustainability since its operational launch in April 2020. The recent audited financial results for the fiscal year ending June 30, 2023 show strong financial performance and future projections are optimistic. Obtaining an investment grade credit rating will be a critical step in enhancing DCE's financial standing and securing favorable terms for future capital initiatives.

An investment grade credit rating is a testament to an organization's financial health and creditworthiness. It signifies a lower risk profile, making DCE more attractive to counter parties and lenders. This rating can result in reduced borrowing costs, increased access to capital markets, leverage in power purchase agreement negotiations, and enhanced credibility within the community choice aggregator space.

With an investment grade credit rating, DCE would gain expanded access to capital markets and be positioned to pursue larger, more ambitious projects. In addition, a favorable credit rating will enhance DCE's reputation in both the financial markets and the power purchase agreement market, making it more competitive and attractive to partners, vendors, and customers.

DCE staff have performed initial development efforts. Staff anticipates meeting with DCE's selected credit agency, either S&P or Moody's, in the spring of 2024. DCE staff intends to work within DCE's Procurement Policy and consult with PFM Financial, who has recently assisted other CCAs through the process of achieving an investment grade credit rating and has special expertise as it relates to prior engagement related to DCE's financial operations. Key components that will be evaluated during the credit rating process are likely to include how DCE's portfolio is structured, the overall goals and objectives of DCE, details of current power purchase agreements and future anticipated projects, five-year financial projections, pricing and hedging strategies.

Fiscal Analysis: An investment grade credit rating typically results in lower interest rates on loans and bonds as well as better terms in power purchase agreements. These cost reductions directly impact DCE's bottom line, freeing up resources for further investments in renewable energy projects.

Initial estimates for the upfront costs, including a consultant, are between \$10,000 - \$15,000. Work with the credit agency may cost up to \$50,000, with an annual fee thereafter. Staff anticipates costs to be covered under the Executive Director's signing authority, with updates provided to the Board throughout the process.

ITEM 8F

Desert Community Energy Board January 8, 2024



STAFF REPORT

Subject: Renewable and Mid-Term Reliability 2023/2024 Request for Proposals

Contact: David Freedman, Program Manager (dfreedman@cvaq.org)

Recommendation: Information

Background: Following the successful completion of DCE's Renewable and Mid-Term Reliability Resources 2023 Request for Proposals (RFP) – culminating with the signature on September 27, 2023, of the 15-year Energy Storage Agreement with Desert Sands Energy Storage II, LLC – staff has launched a new RFP to satisfy DCE's additional Mid-Term Reliability procurement orders as required by the California Public Utilities Commission. This procurement round will also help DCE comply with state policy that eligible renewable energy resources and zero-carbon resources supply 90 percent of all retail sales of electricity to California end-use customers by December 31, 2035, 95 percent of all retail sales of electricity to California end-use customers by the end of 2040, and 100 percent of all retail sales of electricity to California end-use customers by the end of 2045.

Staff worked with its consultant, The Energy Authority (TEA), to prepare and release an RFP on November 27, 2023, which is attached to this staff report. DCE is seeking proposals for renewable energy and storage projects including for distributed energy resources such as rooftop solar, with a tiered local preference for projects that placed the highest preference being for Palm Springs area or Coachella Valley, then Riverside County, then Southern California, and then elsewhere in California or outside of California but with direct interconnection into the California grid. DCE is also seeking to procure bridge resources for the 2024-2026 period, until new resources come online.

The RFP includes information for potential respondents that will allow for a detailed quantitative analysis of all proposed projects to support the RFP evaluation and selection as well as term sheets laying out DCE's preferred contracting terms for potential respondents to consider while developing their offer and pricing. Although DCE issued an RFP, it reserved the right to engage other partners that it deems fitting in discussions about partnering as additional off-takers for a project of substantial size.

Responses to the RFP are due on January 12, 2024. An evaluation committee made up of TEA and DCE staff, their technical consultants, and their legal counsel will review responses to the RFP in the remainder of January and February. Each proposal will be screened for completeness and scored on a weighted criteria basis. DCE staff and TEA intend to identify a short list of proposed transactions around upon which to conduct a more detailed review and may contact respondents with additional questions and clarifications or to offer to conduct one-on-one meetings with some or all the respondents.

After analyzing the proposals received in the RFP, DCE staff may potentially commence negotiation of commercial terms in late March 2024. Any contracts associated with the RFP will be brought to the DCE Board for approval before execution.

DCE is also evaluating other procurement opportunities. In addition to the RFP process, DCE staff has begun preliminary discussion with California Community Power (CC Power), a Joint Powers Authority that has nine Community Choice Aggregation (CCA) programs as its members. CC Power allows its member CCAs to combine their buying power to procure new, cost-effective clean energy and reliability resources to continue advancing local and state climate goals. Any such DCE membership in CC Power will be brought to the DCE Board for approval. The CC Power Board would also need to approve DCE's membership.

Fiscal Analysis: The costs associated with launching and administering the RFP are covered under the existing TEA contract and staff time. The procurement activities in the RFP will ensure that DCE is compliant with state requirements and meets the Board's objectives for procurement of local renewable energy and storage resources. DCE staff will work closely with TEA and DCE's legal counsel to determine which contracts from this RFP will best allow DCE to meet the state compliance requirements and Board objectives while balancing fiscal concerns.

Attachment:

Renewable and Mid-Term Reliability Resources 2023/024 Request for Proposals



Doing Our Part to **Save the Planet**

**RENEWABLE AND MID-TERM RELIABILITY
RESOURCES
(2023/2024 EDITION)
REQUEST FOR PROPOSALS**

RFP 2023-03

Issued: NOVEMBER 27, 2023

**Responses due: JANUARY 12, 2024
11:59 PM EASTERN PREVAILING TIME (EPT)**

All responses are to be submitted through the [RFP Website](#).

Disclaimer

The information contained in this Request for Proposals (RFP) has been prepared solely to assist prospective respondents in making the decision of whether to submit a proposal. Desert Community Energy (DCE) does not purport this information to be all-inclusive or to contain all the information that a prospective respondent may need to consider in submitting a proposal. Neither DCE nor its employees, officers, nor consultants will make, or will be deemed to have made, any current or future representation, promise or warranty, express or implied, as to the accuracy, reliability, or completeness of the information contained herein, or in any document or information made available to a respondent, whether or not the aforementioned parties know or should have known of any errors or omissions, or were responsible for its inclusion in, or omission from, this document. The Energy Authority (TEA) will be conducting this RFP on behalf of DCE.

Background

DCE is a Joint Powers Authority (JPA) — whose members are the cities of Palm Desert and Palm Springs — that was formed to offer a Community Choice Aggregation (CCA) program. Community Choice Energy (or Aggregation) programs are legal entities that allow communities to source their own electricity, putting an end to the monopolies held by traditional Investor-Owned Utilities. DCE offers customers the choice to buy cleaner electricity at competitive rates, reducing greenhouse gases through development of robust renewable energy infrastructure. This adds to the local job market, while allowing programs like DCE to develop strategies to help customers boost energy efficiency and make clean energy more accessible.

DCE launched and began serving customers in Palm Springs in April 2020. The City of Palm Desert is considering whether it will begin serving customers, with the earliest possible launch date in 2027. DCE contracts with Coachella Valley Association of Governments for administrative services and staff. DCE is governed by a Board of Directors with equal representation by an elected official from each participating city. All meetings are open to the public. DCE may be required to disclose information received pursuant to this RFP in accordance with requirements of the Ralph M. Brown Act or the California Public Records Act (“CPRA”), Cal. Gov’t Code § 7920 et seq.

1.0 Purchase Information

1.1 OVERVIEW

DCE is issuing this RFP to meet procurement obligations pursuant to the following:

1. The California Public Utilities Commission’s (CPUC) Decision (D.) 21-06-035¹ requires procurement to address mid-term reliability for 2023-2026. Eligible resources will need to meet, at a minimum, System Resource Adequacy requirements which includes receiving Net-Qualifying Capacity (NQC) and the ability to be listed on a Load Serving Entity’s (LSE) Resource Adequacy (RA) supply plan. DCE’s current need for D.21-06-035 resources includes bridging resources (e.g., firm import contracts of system power) for 2024, 2025 and 2026.
2. The CPUC’s recently adopted D.23-02-040², requiring the procurement of additional mid-term reliability resources for 2026-2027. This Decision also postpones the required online date of the long lead time resources required in D.21-06-035 until 2028.

¹ <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M389/K603/389603637.PDF>

² <https://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&docid=502956567>

*Items 1 and 2 above may be referred to as the “MTR Decisions”.

3. Additional local utility-scale renewable and storage assets generally desired for DCE’s portfolio (not necessarily overlapping with the MTR Decisions’ need).

4. Community-sourced renewable generation or programs that may be load-modifying or supply-side assets, such as:

- Aggregated distributed generation programs.
- Rooftop solar and/or battery energy storage systems and/or microgrids.
- *DCE is **not** considering demand response programs at this time.

Participants may access and download all RFP documents and posted Q&A at <https://rfpmarketplace.teainc.org> (the RFP Website). Materials are also accessible on the Request for Proposals section of DCE’s website at <https://desertcommunityenergy.org/about/rfp/> (DCE’s RFP Website).

Responses are due by **January 12, 2024, by 11:59 PM EPT** unless extended by an Addendum. All responses are to be submitted via the RFP Website.

1.2 ELIGIBILITY REQUIREMENTS

DCE is interested in procuring projects or portions of projects that have an NQC as small as 0.5MW and up to a maximum of 100MW. It is DCE’s preference to contract for resources to achieve compliance with the MTR Decisions but is also interested in contracting for local resources and programs. DCE is open to considering project proposals that may not meet the deadlines listed below but meet all other eligibility requirements.

1.2a ELIGIBILITY REQUIREMENTS – MTR RESOURCES

Pursuant to the MTR Decisions, DCE is seeking projects that meet the basic requirements of the Decisions.

For a resource to be eligible for the requirement of procurement of additional mid-term reliability resources for 2026-2027 under D.23-02-040, the project must:

- Be online by the compliance tranche deadlines of 6/1/2026 and 6/1/27, with a preference for projects with an earlier Commercial Operation Date.
 - Online status includes achieving full operation, receiving NQC, and being eligible to be listed both on a CAISO supply plan and a CPUC RA filing.
- Provide incremental RA and be excluded from the Baseline List of Resources associated with D.21-06-035, and/or any baseline list published for the latest decision.
- Be available to contract with DCE for a term of at least 10 years.

1.2b ELIGIBILITY REQUIREMENTS – BRIDGE RESOURCES

DCE is also seeking to procure bridge resources for the 2024-2026 period, until the new resource comes online. The eligibility requirements for a resource to be eligible as a bridge resource under D.23-020.040 are listed below:

- The resource must meet current RA requirements at the time of contract execution.
- Any resource can qualify, not limited to carbon-free energy resources.
- Contract cannot exceed a period of three years.

1.2c ELIGIBILITY REQUIREMENTS – UTILITY SCALE AND COMMUNITY RESOURCES

DCE is also interested in resources that may not provide value pursuant to the MTR Decisions, but that are local to DCE's native load and are either utility scale renewables or community programs. DCE would prefer projects that can be online by no later than May 2025 and have terms between 10 and 20 years in length. Submitted projects must also be capable of providing the following products at minimum:

- As-available electric energy delivered via CAISO Day-Ahead scheduling procedures.
- Portfolio Content Category 1 (PCC1) Renewable Energy Credits.
- System RA Capacity.

The stress for these projects is on the "local" component. DCE's preference in decreasing order of interest is as follows:

- Palm Springs area or Coachella Valley
- Riverside County
- Southern California
- Elsewhere in California or outside of California but with direct interconnection into the CAISO to provide RA and PCC1 REC benefits.

Eligible technologies include:

- Stand-alone storage
- Co-located (preferred) or hybrid solar with storage
- Co-located (preferred) or hybrid wind with storage
- Geothermal
- Small hydro
- Distributed generation (e.g., rooftop solar hybridized with storage)

Projects must meet the eligibility criteria for renewable energy resources as defined in Cal. Pub. Utilities Code § 399.12 and implemented by the California Energy Commission pursuant to its RPS Eligibility Guidebook. Respondents must describe how the deliveries will meet the PCC1 requirements.

2.0 RFP Procedure

2.1 SCHEDULE

DCE has established the following schedule for the RFP but reserves the right to amend the proposed schedule at any time.

Issuance of RFP	November 27, 2023
Questions Due	December 12, 2023, 1159 PM EPT
Q&A Posted	December 15, 2023, by 1159 PM EPT
RFP Due Date	January 12, 2024, 1159 PM EPT
RFP Evaluation Period	January 2024 – February 2024
Short List Proposals Identified	Early March 2024

Request Additional Detail on Short-Listed Proposals	Mid-March 2024
Begin Negotiations with Short-Listed Respondents	Late March 2024
Expected contract award	May 20, 2024

2.2 QUESTIONS AND ANSWERS

All inquiries, or questions pertaining to the requirements set forth in the RFP may be emailed to TEARFP@teainc.org by 11:59 pm EPT on December 12, 2023. Emails should include the phrase “Renewable and Mid-Term Reliability RFP Questions” in the subject line. Questions and responses will be made public for all participants and posted on the RFP Website Q&A and DCE’s RFP Website via addendum. DCE reserves the right to respond to no questions or only a subset of the questions received.

2.3 BINDING PROPOSALS

Respondents must provide the full legal name of the expected counterparty that would be bound by any agreement with DCE resulting from this solicitation. The cover letter provided by the respondent should be on the respondent’s letterhead, signed by an authorized representative of the bidding company.

3.0 Collateral Requirements

DCE will require collateral to be posted on all executed agreements. The Development Security will be held by DCE until the Commercial Operation Date of the project. The Performance Security must be posted on or before the Commercial Operation Date through the end of the Term. DCE will not post Development Security or Performance Security at any time to any respondent.

Credit/Collateral Requirements:

Product Type	Development Security (\$/kw)	Performance Security (\$/kw)
RA-Only	\$60	\$40
Small Hydro	\$60	\$60
Renewable Generation Paired with Energy Storage	\$100/kw renewable generation + \$90/kw energy storage	\$75/kw renewable generation + \$90/kw energy storage
Geothermal	\$100	\$75
Standalone Energy Storage	\$90	\$90

Distributed Generation and Programs	TBD	TBD
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4.0 Bid Submission Instructions

4.1 GENERAL INSTRUCTIONS

Responses to this RFP are due by the deadline listed in the schedule in Section 2.1 and must be submitted through the RFP Website. Submission packages will be deemed complete if they include the following materials:

- Cover Letter (PDF)
- Offer Form (Excel)
- Redlined Term Sheet(s) (Word)
- Organizational Chart and Resumes of Proposing Development Team (PDF)
- Financial Statements (PDF)

COVER LETTER

Respondents are to provide a brief narrative of the project, including a technology description, the location, sizing, pricing, and any relevant high-level details. The cover letter must be signed by an authorized representative of the bidding company. Respondents should provide enough detail, especially for unique or innovative projects, to allow for a meaningful qualitative evaluation of the proposed project. Brief cover letters are preferred.

OFFER FORM

The Excel Offer Form is the primary source of data for evaluating submissions. Completing the Form template is mandatory, and all required fields must be completed for each submission to be considered compliant. Provide a separate Offer Form for each unique configuration that is being offered.

REDLINED TERM SHEET

Term sheets for RA with Energy and RA only are posted on the RFP Website. Respondents are to provide comments and proposed edits in Track Changes indicating limited adjustments to commercial terms presented in the applicable Term Sheet that they wish to negotiate should their project get shortlisted. The Term Sheet should include the primary offer details.

ORGANIZATIONAL CHART AND RESUMES OF PROPOSING DEVELOPMENT TEAM

Please provide information on key staff and experience which may include brief resumes of respondent's relevant personnel and management, and an organizational chart of the proposed development team. The organization and key staff information should be no longer than 20 pages.

FINANCIAL STATEMENTS

Please provide at least two recent years of audited financials. If the respondent is being financed by a parent company of the respondent, please submit financial statements for that entity in addition to those of the respondent.

4.2 Public Nature of Responses

TEA will act as the administrative point of contact during the proposal submission phase of this solicitation. TEA and/or DCE may communicate with respondents during the evaluation and

selection phase. All responses to this RFP, as well as records of pre-submittal and post-submittal communications with TEA or DCE, will become the exclusive property of DCE. Responses and communications with TEA and DCE are subject to disclosure in accordance with the CPRA. Respondents should not submit any information or documents that they consider proprietary and that they would not want publicly disclosed.

Exceptions to disclosure may be available to those parts or portions of proposals that are justifiably and reasonably defined as business or trade secrets, and plainly marked by respondents as "Trade Secret", "Confidential", or "Proprietary". TEA and DCE will endeavor to protect any such marked information to the extent permitted under the CPRA. However, TEA and DCE shall not, in any way, be liable or responsible for the disclosure of any such record or any parts thereof, if disclosure is required or permitted under the CPRA or otherwise by law.

In the event TEA or DCE receive a CPRA request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "Confidential", "Trade Secrets", or "Proprietary", respondents agree to defend and indemnify TEA and/or DCE from all costs and expenses, including reasonable attorneys' fees, incurred in connection with any action, proceedings, or liability arising in connection with the CPRA request.

A blanket statement of confidentiality or the marking of each page of the proposal as confidential shall not be deemed sufficient notice of a CPRA exemption, and a respondent who indiscriminately and without justification identifies most or all its proposal as exempt from disclosure or submits a redacted copy may be deemed non-responsive.

5.0 Evaluation and Selection Process

An evaluation committee made up of TEA and DCE staff, their technical consultants, and/or their legal counsel, will review responses to this RFP. Each proposal will be screened for completeness and scored on a weighted criteria basis. TEA and DCE intend to identify a short list of proposed transactions upon which to conduct a more detailed review and may contact respondents with additional questions and clarifications or to offer to conduct one-on-one meetings with some or all the respondents. The opportunity to participate in such meetings, if any, will be communicated separately to individual respondents.

After reviewing the proposals received in this solicitation and any such meetings, DCE may potentially commence negotiation of commercial terms. DCE would then present recommended contract terms to its senior leadership for final approval.

DCE realizes that some offered projects may be larger than DCE can reasonably use for its own procurement purposes. For this reason, DCE reserves the right to engage other partners that it deems fitting in discussions about partnering as additional off-takers for a project of substantial size.

5.1 Completeness

The evaluation committee will screen all RFP responses for completeness and responsiveness to the eligibility requirements stated above. This screening will be on a Pass/Fail basis. Each proposal that is deemed complete and responsive will then be scored using a weighted scoring criteria process.

5.2 Evaluation Criteria

Criteria for selection of proposals will include, but not be limited to, the items listed below. The evaluation committee will evaluate each proposal on a weighted criteria basis to determine the highest scoring proposals. One or more of the highest scoring proposals may be forwarded to DCE's governing board for approval. There is a maximum of 100 points.

Weight/Scoring Criteria

- 1) 40 — Respondent experience, qualifications, creditworthiness
- 2) 30 — Overall price and customer value
- 3) 10 — Environmental impact and environmental benefits of proposed capacity resource
- 4) 10 — Location and economic benefit of proposed capacity products
- 5) 10 — Conformance to DCE's Term Sheets

Total Points Possible: 100

5.3 Respondent Communications

Questions, comments or feedback associated with this RFP must be sent electronically to TEARFP@teainc.org.

5.4 Disclaimer for Acceptance or Rejection of Offers and RFP Termination

By participating in DCE's RFP process, a respondent acknowledges that it has read, understands, and agrees to the terms and conditions set forth in these RFP Instructions. DCE reserves the right to reject any proposal that does not comply with the requirements identified herein, or to waive irregularities, if any. DCE further reserves the right to communicate with individual respondents to ask clarifying questions about their proposals prior to making a short-listing decision. Furthermore, DCE may, at its sole discretion and without notice, modify, suspend, or terminate the RFP without liability to any organization or individual. Any modification to this RFP would be made by Addendum. This RFP does not constitute an offer to buy or create an obligation for DCE to enter into an agreement with any party, and DCE shall not be bound by the terms of any offer or proposal until an agreement has been fully executed. DCE may negotiate and execute contracts with different respondents on differing timelines. If selected, a respondent may be invited to enter into a contract with DCE. Where negotiations do not result in mutually agreeable terms, DCE may choose not to execute a contract with the respondent. DCE shall not be responsible for any of the respondent's costs incurred to prepare, submit, negotiate, or to enter into a power purchase agreement, or for any other activity related to meeting the requirements established in this solicitation. All submittals shall become the property of DCE and will not be returned.

DCE has no obligation to reimburse, compensate, or otherwise pay the costs incurred by respondents to this RFP in evaluating its contents, providing a response, or, if selected by DCE, negotiating, delivering, and executing any definitive agreements that arise from this RFP. Respondents to this RFP are solely responsible for all costs incurred by them when evaluating and responding to this document, and any negotiation costs incurred by the recipient thereafter. DCE may, in its sole discretion and without limitation, refuse to accept any and all proposals and to evaluate proposals and proceed in the manner they deem appropriate which may include deviation from the expected evaluation process, the waiver of any requirements, and the request for additional information. Rejected respondents will have no claim whatsoever against DCE nor its employees, officers, nor consultants.

5.5 Nondiscrimination

In connection with the execution of a contract, respondents shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, political affiliation, ancestry, marital status, or disability. This policy does not require the employment of unqualified persons. Parties agree that as a condition precedent to entering into a contract, any respondent is in compliance and will comply during duration of the contract with the non-discrimination provisions set forth under California Law for state contracting parties including, but not limited to, Government Code Section 12990 et seq. and Public Contracting Code Section 10295.35.

5.6 Protest of Award

Protest procedures and dispute resolution process will be in accordance with the DCE Procurement Policy. The protest must be submitted in writing to DCE's Executive Director via certified mail using the following address:

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

ITEM 8G

Desert Community Energy Board January 8, 2024



STAFF REPORT

Subject: Roll out of SCE's Solar Billing Program

Contact: Emily Langenbahn, Management Analyst (elangenbahn@cvag.org)

Recommendation: Information

Background: At its June 2023 meeting, the Board adopted Policy No 23-01 regarding DCE's Net Energy Metering (NEM) Program and Solar Billing Program. These changes were made in anticipation of the implementation of Net Energy Metering (NEM) 3.0, also known as the Solar Billing Plan for Southern California Edison (SCE) customers. Although the Solar Billing Plan took effect on April 15, 2023, SCE did not have its billing system in place to appropriately bill new solar customers on the updated rates. In the interim, Solar Billing Plan customers have been billed under rates for NEM 2.0, SCE's previous solar program.

The expected implementation date for the updated billing system was December 15, 2023, however, due to an alert issued for high winds, Public Safety Power Shutoffs (PSPS) were put in place in SCE territory. SCE is unable to implement new billing systems during PSPS events, and delayed implementation of its billing system for the Solar Billing Plan until December 21, 2023.

SCE assures there will be no impact to customers billed on the Solar Billing Plan beginning on the original compliance date. Any customer that should be billed under the Solar Billing Plan beginning on December 15, 2023 will in fact still experience that billing treatment on time. SCE intends to hold these customer bills and complete bill calculations for these customers to represent accurate billing statements when bills do close, approximately 30 days after December 15, 2023.

DCE customers under SCE's Solar Billing Plan and DCE's parallel solar program will start to see the updated rates reflected on their monthly bill following this date. DCE's website has been updated to reflect SCE's implementation of its billing system for the Solar Billing Plan.

In order to avoid confusion with SCE's program, DCE staff plans to rename DCE's Solar Billing Program as the Solar Option Program. This will be reflected in updates to the website and any outreach to customers.

Fiscal Analysis: There are no costs for this informational update.