TO: East Bay Community Energy Board of Directors  
FROM: Todd Edmister - Director of Regulatory Affairs and Deputy General Counsel  
SUBJECT: Third Amendment to the NewGen Strategies and Solutions CSA  
DATE: March 17, 2021

Recommendation

Adopt a Resolution authorizing the CEO to negotiate and execute a Third Amendment to the Consulting Services Agreement with NewGen Strategies and Solutions, LLC (“NewGen”) to add additional scope of work, compensation, and to extend the term through June 30, 2022.

Background and Discussion

On April 1, 2019, EBCE entered into a Consulting Services Agreement (CSA) with NewGen for expert witness services for a total amount of $18,570. On March 17, 2020, EBCE executed a First Amendment to the CSA to add $15,000 to the not-to-exceed amount and to extend the termination date through June 30, 2021. On March 23, 2020, EBCE executed a Second Amendment to the CSA to modify the scope of work and to increase the not-to-exceed amount by $66,430. EBCE seeks continued assistance from NewGen with this year’s annual Power Charge Indifference Adjustment (PCIA)-filings from Pacific Gas & Electric Company (PG&E) at the California Public Utilities Commission (CPUC), and the upcoming PG&E general rate case (GRC).

PG&E annually makes a series of filings at the CPUC to set the PCIA rate. The PCIA rate, in turn, directly impacts customer costs and EBCE’s ability to offer rates competitive with PG&E bundled customer rates.

PG&E also files a GRC every three years. The GRC, among other things, establishes costs that will feed into the PCIA and into PG&E’s generation rate for bundled customers. The GRC also establishes the rate designs that EBCE will have to match to provide rates competitive with PG&E bundled customer rates.
EBCE participates in CPUC proceedings concerning these filings. EBCE contracts jointly with other community choice aggregators from PG&E’s service territory (Joint CCAs) to hire outside counsel and consultants to support these proceedings. The Joint CCAs then share the litigation costs.

Participation in the annual PCIA-related CPUC proceedings filed by PG&E has saved EBCE customers millions of dollars annually in PCIA-related charges. Participation in PCIA-related proceedings and the GRC has also facilitated EBCE’s ability to offer generation rates competitive with PG&E’s.

NewGen provided expert witness and related consulting services to the Joint CCAs in the PCIA-related proceedings filed in 2019 and 2020. In addition, NewGen is currently providing expert witness services in the current PG&E GRC. NewGen’s services have been critical to the success of the Joint CCAs’ (including EBCE) litigation efforts and the CPUC. The Joint CCAs wish to continue working with NewGen in the next round of these proceedings.

Staff recommends authorizing the CEO to enter into a Third Amendment with NewGen to add additional compensation, increasing the not-to-exceed amount by $60,000 for a total amount not to exceed $160,000, and to extend the termination date through June 20, 2022.

**Fiscal Impact**

This Third Amendment will result in a $60,000 maximum spend through the balance of this fiscal year, through the next fiscal year, and possibly extending into calendar year 2023, depending on the length of the PG&E GRC.

**Attachments**

1. Resolution Authorizing the CEO to Execute the Third Amendment to the Consulting Services Agreement with NewGen Strategies and Solutions.
RESOLUTION NO. __

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO EXECUTE THE THIRD AMENDMENT TO THE CONSULTING SERVICES AGREEMENT WITH NEWGEN STRATEGIES AND SOLUTIONS, LLC

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

WHEREAS, EBCE and NewGen Strategies and Solutions, LLC ("NewGen") entered into a Consulting Services Agreement dated April 1, 2019 ("Agreement"), wherein NewGen agreed to provide expert witness services to EBCE. EBCE and NewGen subsequently amended the Agreement ("First Amendment") to add additional compensation and to extend the termination date through June 30, 2021. EBCE and NewGen again amended the Agreement ("Second Amendment") to provide for task orders as a means of altering the Agreement’s scope of work and to raise the not-to-exceed amount to $100,000.

WHEREAS, from 2019 through the present, NewGen has provided regulatory litigation legal services in support of successful outcomes for EBCE in the Pacific Gas and Electric ("PG&E") Energy Resource Recovery Account ("ERRA") and General Rate Case proceedings in front of the California Public Utilities Commission ("CPUC"), while advancing important policy concerns through the CPUC’s PG&E Safety Culture investigation. EBCE would benefit from continued assistance from NewGen for consulting services, including PG&E’s most recent and upcoming ERRA applications, and PG&E’s next General Rate Case.

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

Section 1. The Board of Directors hereby authorizes the CEO to negotiate and execute a Third Amendment to the Consulting Services Agreement with NewGen to increase the not-to-exceed amount by $60,000 for a total amount not to exceed $160,000 and to extend the term through June 30, 2022.
ADOPTED AND APPROVED this 17th day of March, 2021.

________________________________________
Dan Kalb, Chair

ATTEST:

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Adrian Bankhead, Assistant Clerk of the Board