



REQUEST FOR PROPOSALS

EBCE RIDE ELECTRIC E-BIKE ADOPTION PROGRAM

RESPONSE DUE

by

5:00 PM PT

on

February 3, 2023

Protocol Date: October 28, 2022

REVISED 12.19.22

For complete information and possible updates regarding this procurement, please see RFP posted at ebce.org/solicitations/. Thank you for your interest!

1. OVERVIEW

A. PURPOSE

East Bay Community Energy (EBCE) is seeking proposals for program design, marketing, outreach and implementation of a consumer facing Electric Bicycle (e-Bike) Adoption Program (e-Bike Program) that is available to EBCE customers in Alameda County (excluding the City of Alameda), and the cities of Tracy and Stockton. EBCE has allocated \$2 million dollars to initiate this program in 2023 and is planning to allocate an additional \$4 million dollars over the next 2 years for a total of \$6 million over 3 years.

B. BACKGROUND

The formation of Community Choice Aggregators (CCAs) was made possible in 2002 by the passage of California Assembly Bill 117, enabling communities to form their own electricity load serving entities and purchase power on behalf of their residents and businesses.

EBCE was formed as a CCA on December 1, 2016, under the Joint Exercise of Power Act, California Government Code sections 6500 et seq. EBCE's members include the County of Alameda and the cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City. These communities formed EBCE to study, promote, develop, conduct, operate, and manage electricity procurement and energy-related climate change programs in all of the Joint Powers Authority (JPA) member jurisdictions. In 2019, the cities of Newark, Pleasanton, and Tracy (San Joaquin County) were added into EBCE's JPA. EBCE began providing electricity to customers in these new member jurisdictions in April 2021. In December 2021, S&P Global Ratings assigned an 'A' issuer credit rating to EBCE and commented that "The outlook is stable." And in 2022 the City of Stockton (San Joaquin County) also opted into EBCE's JPA. Electricity service to Stockton's residents and businesses is scheduled to begin in early 2024.

EBCE is governed by a Board of Directors consisting of elected representatives from each JPA member jurisdiction. EBCE has the rights and powers to set rates for its services, incur indebtedness, and issue bonds or other obligations to meet its responsibilities for the acquisition of electric power for its service area.

Today EBCE serves over 640,000 customer accounts representing a population of over 1.8 million people, 50,000 businesses, and approximately 6,700 GWh of annual load. EBCE is currently the third largest CCA in California and the largest in Pacific Gas and Electric's (PG&E) transmission and distribution service territory.

C. FUNDING AND OBJECTIVES

EBCE Program Description and Goals:

EBCE is seeking to provide a comprehensive e-Bike Program to increase adoption of zero-emission micromobility options that are safe, affordable and reduce motor vehicle trips across our service area. The e-Bike Program will provide EBCE's customers with the opportunity to get hands-on experience using e-Bikes and reduce the cost of ownership. The e-Bike Program will have **two components and respondents may submit a proposal for one or both Program areas. Respondents are not required to submit a proposal for both e-Bike Program areas.** However, it is EBCE's preference to have a single e-Bike Program Administrator.

1. **e-Bike Incentive Program:** The e-Bike incentive is intended to increase adoption and ownership of electric bikes in EBCE's service territory. Incentives will be available to all customers, with 40% of incentives dedicated to low income customers on EBCE's CARE electricity rate.
2. **e-Bike Lending Program:** EBCE aims to stimulate e-Bike ownership beyond the financial limits of EBCE's ability to provide ongoing, long term incentives. Therefore, EBCE is soliciting proposals for an e-Bike Lending Program that will allow residents to check out e-Bikes for a to-be-determined period of time. Borrowing an e-Bike will enable EBCE's customers to gain hands-on experience to determine if an e-Bike could meet the needs of their daily activities. The intent of the e-Bike Lending Program will be to increase awareness and enthusiasm for e-Bikes, resulting in residents eventually purchasing e-Bikes. Please note, there should be no commitment of the customer to purchase an e-Bike to be eligible to check out an e-Bike through the Lending Program. The Lending Program should be coordinated however with the Incentive Program as long as funds last.

While participation in both e-Bike Program areas is not exclusive to low-income residents, engagement of EBCE's low-income customers must be prioritized in respondent proposal(s). Low-income customers are defined as households on the [CARE](#) electricity rate. Please note:

- EBCE knows the location of our CARE customers and will confirm eligibility verification (ex. incentive adder) internally.
- EBCE's CARE customers do not solely reside in disadvantaged communities (DAC) and / or low-income census tracts (LIC). In turn, e-Bike Program design should not focus solely on DAC/LIC geographic boundaries.

All proposals must include marketing and outreach strategies (described below), along with customer support, to customers that are non-English speaking in multiple languages.

Funding

EBCE has allocated \$2M for its e-Bike Program in 2023 and will provide an additional \$4M in funding for 2024-2025 (a total of \$6M over the next three years).

- Area 1: e-Bike Incentive Program - \$4M over 3 years
- Area 2: e-Bike Lending Program - \$2M over 3 years

EBCE is aware there may be other local, regional, state and federal funding available for e-Bikes in 2023. Proposals that leverage these external funding sources are encouraged and will be evaluated according to how they increase e-Bike Program availability, participation, and community benefit.

D. CUSTOMER AND PROGRAM REQUIREMENTS

- The e-Bike Program will be available to residents that are EBCE customers in Alameda County (sans the City of Alameda), and in the cities of Tracy and Stockton. All participants must be an EBCE customer (or reside in a home that takes service from EBCE). EBCE and selected Respondent(s) will establish an applicant / participation verification system utilizing tools provided by EBCE to verify customer eligibility.
- Selected Respondent(s) will also be required to notify EBCE of customer participation in the e-Bike Program in EBCE's customer CRM, Salesforce.
- Incentives will only be available for new e-Bike purchases
- Income qualified customers, defined by households on the CARE electricity rate, shall receive a minimum of 40% of all Incentive Program funding
- e-Bikes must have operable pedals with a motor less than or equal to 750 Watts
- Conversion kits, scooters and mopeds are not eligible
- e-Bikes provided via local and/or online retailers is allowed
- e-Bike deployment under both Program areas (Incentives and Lending) must begin no later than September 1, 2023
- All participants in EBCE's e-Bike Program (Incentive and/or Lending) must be at least 18 years old

E. PROGRAM DESIGN REQUIREMENTS

The selected Respondent(s) will, in consultation with EBCE, assist with program design including metrics, eligibility, and application/incentive processing. Please describe your proposed approach to the following Program design questions in your **Proposal Narrative**.

Applicant Qualifications

- Describe Respondents ability to successfully act as EBCE's e-Bike Program Administrator based upon experience/expertise in and history of successfully implementing similar incentive projects or working with e-Bike manufacturers, retailers, and/or other e-Bike or transportation related stakeholders.

- Provide specific details on Respondents experience or expertise successfully implementing large scale incentive projects or programs and working with e-Bike stakeholders

Proposed Budget

Please note this section applies to both the Incentive and e-Bike Lending Program areas and must be addressed in the Respondent's proposal accordingly

- **e-Bike Incentive Program:** Please identify a proposed budget for all components of the Incentive Program.
 - Describe proposed incentive levels and structure for low income and market rate customers. Describe any proposed program restrictions (ie eBike type, price cap or otherwise). Describe if other equipment such as helmets and/or locks would be included.
 - Describe the total incentive processing fee requested, which shall include costs to cover implementation of all tasks by fiscal year.
 - Please note, the incentive processing fee shall not exceed 15% percent of the total project funding.
 - EBCE has considerable capacity to support customer verification, incentive tracking and management through our Salesforce CRM. Vendors are encouraged to consider how to maximize the use of EBCE tools to reduce administrative costs.
 - Please itemize insurance and all other costs required to develop and administer the Program (ex. overhead, contingency, marketing and outreach, etc.)
 - Describe how you would structure a step down incentive, by customer segment, including any enhancements/adders for income eligible participants
 - Please include justification for the step down incentive levels and their thresholds for each customer segment
 - Describe the total number of bikes that will be incentivized over the course of the Program
- **e-Bike Lending Program**
 - Itemize by number of units and e-Bike type all procurement costs
 - As applicable, itemize costs (unit/type) for all other equipment you propose should be included in the e-Bike Lending Program (ex. helmets, locks, lights, etc.)
 - Please describe if the locations where e-Bike and other equipment (as applicable) are stored has an associated lease fee and if so, what that fee is for the duration of the Program
 - Please itemize insurance and all other costs required to develop and administer the Program (ex. overhead, contingency, marketing and outreach, etc.)

Marketing and Outreach

Please note this section applies to both the Incentive and e-Bike Lending Program areas and must be addressed in the Respondent's proposal accordingly

- Describe your marketing and outreach strategy: The types of outreach planned (e.g., printed materials, web-based, and social-media; fact sheets, infographics, and other multimedia tools such as videos)

- As applicable, provide an approximation of the number of community events to promote e-Bikes (ex. demonstration) and the geographic location of those events
- Describe your strategy for supporting organizations and groups that are representative of EBCE, our JPA member communities and/or Community Based Organizations (CBOs) to ensure the Program is providing education, technical assistance, etc. to income qualified and hard to reach customers?
- What is your strategy to engage EBCE's communities through the use of culturally-appropriate outreach and education materials in the languages(s) commonly spoken within EBCE's service area.
- What is your strategy to support bicycle retailers and/or other stakeholders you've partnered with, for either Program area, to ensure sales staff support consumers / users
- Describe how you will ensure the e-Bike Program is available to customers across EBCE's service territory
- Describe how the e-Bike Program will generate awareness/brand identity about EBCE among residents generally
- Describe the user-friendly public website(s) that may be hosted by EBCE, the selected Respondent(s), or an EBCE approved third party. Please note: The website, and all content posted thereto must be ADA-compliant, in accordance with the Web Content Accessibility Guidelines 2.0 or a subsequent version, published by the Web Accessibility Initiative of the World Wide Web Consortium at a minimum Level AA success criteria.
- For the Incentive Program, the website must include, at a minimum:
 - General Program information and instructions on how to participate
 - A list of eligible e-Bikes and related equipment and associated incentive amount
 - Incentive statistics, including incentives requested and incentives redeemed, dollars awarded, available and expended funds, location of incentive, and other statistics as defined by EBCE such as e-Bike type and location, either where purchased or domiciled
 - Ability to provide a visual representation of where incentives are being requested and/or disbursed with a mapping tool
 - Ability to provide user survey data to display information such as demographics, buying experience, motivations to purchase, decision making process, etc. upon request by EBCE
 - Applicable documents and forms related to the Program
- For the e-Bike Lending Program, the website must include, at a minimum:
 - General Program information and instructions on how to participate
 - A list of available e-Bikes and related equipment by location (in real time)
 - Ability to provide a visual representation of where e-Bikes are available (in real time) with a mapping tool
 - An online reservation system to borrow e-Bikes with mechanism to cancel reservation (ex. if user is significantly late to check-out the e-Bike up)
 - A connection to the Incentive Program area website
 - Ability to provide user survey data to display information such as demographics, user experience, motivations to borrow e-Bike, decision making process, etc. upon request by EBCE
 - Applicable documents and forms related to the Program

e-Bike Procurement

Please note this section applies to both the Incentive and e-Bike Lending Program areas and must be addressed in the Respondent's proposal accordingly

- Note: All local bike retailers proposed by Respondents must have a presence in Alameda County (sans the City of Alameda), and/or the cities of Tracy and Stockton.

- Describe your e-Bike procurement process and supplier engagement strategy. Include details (e.g., names) for all subcontractors, dealers, e-Bike manufacturers, etc. that will result in the successful Administration of EBCE's e-Bike Program. Provide letters of support/commitment from any suppliers participating in the program (if available)
- Describe any ongoing consumer discounts that may be available through the procurement of this volume of e-Bikes from suppliers, dealers, e-Bike manufacturers
- Which types of e-Bikes will be included in the Program? ex. Class 1, 2, 3, cargo bikes, adaptive bikes that accommodate individuals under the Americans with Disabilities Act

Incentive Program: Distribution and Processing

Please note that all incentive payments must be distributed to the partner e-Bike retailer(s) (e.g., point of sale incentive, paid to the retailer(s) and not an individual customer)

- Describe the customer journey and how your program design and support team will avoid extended incentive processing timelines. Example:
 - Singed final purchase agreement - shows final purchase price less the incentive amount and any other additional incentive funding.
 - e-Bike and/or equipment base price
 - Sale price of any other equipment supported by EBCE's Program
 - Incentive discount, including all incentive enhancements itemized
 - All applicable taxes and fees
 - Note who the required signatories will be (ex. retailer and purchaser)
- Describe how you plan to mitigate re-selling of e-Bikes for profit
- Describe proposed incentive levels, including those for income qualified (CARE) customers and non-income qualified customers; please justify the incentive levels for each customer segment
- Describe how you will work with with EBCE to develop and maintain accounting procedures to track funding reservation and expenditures
- Describe how you will establish a process for returned incentive funds as a result of unused incentives, prorated returns, cancellations, etc. (as applicable)
- Provide suggestions on how to structure a waiting list should the Program become oversubscribed and EBCE determines a waiting list is appropriate
- Describe how any external funding sources may be leveraged to enhance EBCE's incentives and what the potential risks are with these funding sources

e-Bike Lending Program: Distribution and Processing

- Describe how e-Bikes will be stored and distributed through the Lending Program
- Describe how customers receive and return e-Bikes
- Propose what the e-Bike loan period should be
- Although not required for a customer to check-out an e-Bike, please describe how lending sessions will be leveraged to encourage eventual customer e-Bike purchases while incentives are available, and after incentive funds have been exhausted
- Estimate the number of lending sessions over the three year period for your proposed Program design
- Describe the maintenance plan and schedule for e-Bikes
- Please provide an estimate of the annual attrition rate from damage and/or theft
- Describe how the e-Bikes in the Lending Program will be insured
- Describe what your proposed process is from a customer's perspective if the e-Bike is damaged and/or stolen during the period it is checked-out

- Describe how your firm, as the Program Administrator, will manage late e-Bike returns and/or missing e-Bikes
- Describe your thoughts on integrating customer deposits as a requirement to check out an e-Bike through the Lending Program

Reporting

Please note, a reporting schedule and requirements shall be agreed upon by EBCE and the selected Respondent(s) and included in the Consulting Services Agreement. Selected Respondents(s) shall submit reports to EBCE no later than thirty (30) days after the close of each calendar quarter. Quarterly reporting shall include, but not be limited to:

- # of e-Bikes checked out through the Lending Program
- # of e-Bike incentives paid and delivered
- # in-language marketing collateral delivered
- # of income qualified participants
- # of participants on the Lending Program waitlist
- # of Lending Program distribution locations
- Program budget status

Please describe in your proposal any other suggested metrics and milestones that should be incorporated into these annual reports.

F. EVALUATION AND SCORING

Proposals will be evaluated based on their ability to effectively increase e-Bike utilization, adoption, ridership and ownership, provide a safe and convenient process, and drive interest and participation in the program through effective marketing and community engagement strategies. The evaluation matrix that EBCE will use is provided below.

RFP Section	
Meets EBCE Eligibility Requirements	
	Serves EBCE Community Allocates resources to income qualified customers Viable Program launch plan by Sept 1, 2023
Applicant Qualifications and Experience	
	Team is experienced and capable of delivery Team has local capacity and relationships Team has experience deploying similar programs successfully
Proposed Budget	
	Budget is detailed and realistic Administrative costs are reasonable Incentive levels are reasonable Leverages additional external funding
Marketing and Outreach	
	Appropriately allocates outreach across all EBCE customers Partners with EBCE and local CBOs to reach all customer segments Provides EBCE transparency to program utilization metrics
Program Implementation Plan: Design and Procurement	
	Program design facilitates a smooth customer journey Strong procurement plan with local partners Program increases eBike awareness and adoption throughout EBCE territory Well documented plan for maintaining program over 3 year duration
Acceptance of EBCE Master Services Agreement	
	Proposer has no (or minimal) redlines of EBCE MSA

G. REQUIRED INFORMATION

The following items must be included in the submittal. There is no page or materials limit to the RFP submission, and concise responses are strongly encouraged.

- 1. Cover Transmittal Letter:** Provide a narrative that introduces the firm and team, highlighting the strengths of the firm to deliver the proposed Program(s). Please include an acknowledgement that the submitter has received and reviewed the RFP. The letter should be signed by an authorized principal of the submitting firm.
- 2. Proposal Narrative:** Please submit a Proposal Narrative that responds to the items listed in Sections D and E above.
- 3. References:** Provide at least two (2) client references with contact names and information.
- 4. Letters of Commitment:** If any external partners have been listed in the narrative, please provide a Letter of Commitment from said organization outlining their expected role. A Letter of Commitment shall include participating organization name, point of contact, expected role and signature from decision maker with organization.
- 5. Review of EBCE Consulting Services Agreement:** The Respondent will review the EBCE Consulting Services Agreement (Attachment B) and identify, by redline, any

portions the Respondent desires to amend either by addition, deletion, or modification. The scope of Services will be added when the selected vendor(s) has been chosen.

Information Submittal Checklist

- Cover Transmittal Letter
- Proposal Narrative
- Firm References
- Letter of Commitment
- Consulting Services Agreement with any proposed redlines

G. ATTACHMENTS

The following Attachments are hosted on the RFP webpage and hereby made part of this RFP:

- A. EBCE 2022 e-Bike Program Request for Proposals (RFP)
- B. EBCE Consulting Services Agreement (EBCE CSA)

H. SCHEDULE

Date/Time	Event
October 28, '22	EBCE Issues RFP
November 30, '22 2PM - REVISED	Respondent Webinar for RFP
December 7, '22 <i>no later than 5pm - REVISED</i>	Final deadline to submit questions
December 9, '22	EBCE posts Q&A document, inclusive of all questions received by Dec 1
February 3, '23 <i>No later than 5PM</i>	RFP Responses due
February 20-24, '23	EBCE interviews shortlisted project teams
March 1, '23	EBCE notifies selected vendors
March 15, '23	EBCE Board of Directors approves Selection

I. RFP Process

By responding to this RFP, Respondents agree to be bound by all terms and conditions of the RFP including any changes or supplements that may be issued by EBCE.

Webinar: EBCE will hold a Respondent Webinar on the date listed in D. Schedule to review key information in this protocol related to the solicitation and form agreement terms. Questions will be answered if time allows. All interested parties may register for the webinar with this link: https://us02web.zoom.us/webinar/register/WN_X79xNWtMQW2zPpFstS-d0Q. Attendance is not mandatory but encouraged.

Proposals Due: Proposals must be submitted via email to email: EBCE_e-Bikes_2022@ebce.org.

Proposals Selection: EBCE will evaluate Proposals in accordance with the terms described in Section F: Evaluation and Scoring

Following project submissions, EBCE may engage in interviews and limited negotiations with Proposer(s). The final selection of Proposal(s) for execution will be evaluated for reasonableness and desirability of terms reached by both parties through the negotiations process.

Presentation to Board/Council: EBCE will present selected program(s) and Consulting Services Agreement(s) to its Board of Directors in advance of execution.

Execution of Contract: EBCE will seek to execute the Consulting Services Agreement(s) following Board approval. The Consulting Services Agreement(s) is a standard form that EBCE has used in the past. In the event that there are substantive amendments of the Consulting Services Agreement the approval and execution of the Agreement(s) may be delayed. EBCE maintains the right to execute the Agreement along an earlier or later timeline if commercial terms are agreed to faster or slower than described in the RFP schedule.

2. SUPPLIER DIVERSITY

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

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

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

For information on the certification process and requirements, please visit the Certifications page (<https://www.cpuc.ca.gov/Certifications/>).

3. DISCLAIMERS FOR REJECTING PROPOSALS AND/OR TERMINATING THIS RFP

This RFP creates no obligation to execute a Consulting Services Agreement or enter into any transaction as a result of the RFP. EBCE retains the right, at its sole discretion, to reject any Proposal on the grounds that it does not conform with the terms and conditions of the RFP and reserves the right to request additional information at any time during the evaluation process.

EBCE retains the right to: (1) modify this RFP and/or the Consulting Services Agreement as it deems appropriate to implement the RFP, comply with applicable laws, or best meet the organizations' evolving understanding of its needs; or (2) reject any Proposals for any reason.

EBCE will not be liable in any way by reason of such withdrawal, rejection, suspension, delay, or termination to any Respondent, whether submitting a Proposals or not.

Respondents are required to disclose any past, ongoing, or potential conflicts of interest which the Respondent may have which could affect performing the work for this project and service.

4. COMMUNICATIONS

EBCE has developed a solicitation website where Respondents may register for notifications, register for the Respondent Webinar, and where all RFP documents, information, announcements, and Q&A will be posted and made available to the market.

To promote efficiency and accuracy in communications, all Respondents must submit any inquiries via email to EBCE_e-Bikes_2022@ebce.org. EBCE will not respond to any material questions submitted after the final question deadline of December 1, 2022. All answers will be compiled into a document and posted to the RFP website by December 9, 2022. EBCE reserves the right to combine, rephrase, or not respond to some questions.

5. RESPONDENT REPRESENTATIONS

By submitting an Proposals, Respondent agrees to be bound by the conditions of the RFP Protocol, and makes the following representations, warranties, and covenants to EBCE, which representations, warranties, and covenants will be deemed to be incorporated in their entirety into each of Respondent's submittals and are deemed to be material to EBCE's consideration of the proposals:

1. Respondent agrees that EBCE is not liable to any Respondent or party in law or equity for any reason whatsoever for any acts or omissions arising out of or in conjunction with this request for submittals and that Respondent has no legal recourse against

- EBCE, its members, directors, officers, employees, and agents for rejection of their proposal(s).
2. Respondent acknowledges that it has had the opportunity to seek independent legal and financial advice of its own choosing with respect to this RFP and agrees to be bound by the terms and specifications of this RFP and any addenda subsequently issued prior to the due date of the submittal.
 3. Respondent has obtained all necessary authorizations, approvals, and waivers, if any, required by Respondent to submit its Proposals pursuant to the terms of this RFP.
 4. Respondent acknowledges that EBCE reserves the right to suspend this RFP or issue a new RFP that would supersede and replace this RFP.
 5. Respondent warrants that it has no employees in its employ who in any capacity have a position at EBCE that enable them to influence the selection of a Respondent or any competing RFP, nor does Respondent have in its employ any EBCE Director, including any Regular or Alternating Directors (collectively "CCA Director") or EBCE employee who is the spouse or economic dependent of such an EBCE employee. A list of current EBCE Directors can be found on the EBCE's website (<https://ebce.org/who-we-are/>). This list may be updated from time to time.
 6. Respondent's proposal complies with all applicable laws.
 7. Respondent warrants that all information submitted by Respondent in connection with this RFP is true and accurate as of the date of the Respondent's submission. Respondent also covenants that it will properly update any submitted information immediately upon any material change thereto.

6. TERMINATION OF RFP-RELATED MATTERS

EBCE reserves the right at any time, in their sole discretion, to terminate the RFP without prior notification to Respondents and without liability of any kind.

7. PROTEST

If an unsuccessful Respondent wants to dispute an award or award recommendation, a protest must be submitted in writing to COO, Howard Chang, no later than ten (10) calendar days after notice that the proposer was unsuccessful, detailing the grounds, factual basis and providing all supporting information. Protests will not be considered for disputes on the grounds that a material provision in this RFP is ambiguous. Failure to submit a timely written protest to the contact listed below will bar consideration of the protest.

The addresses for submitting protests is:

Attention: Howard Chang, COO
East Bay Community Energy
1999 Harrison St, Suite 800
Oakland, CA 94612

Please submit electronic versions of any protest to Howard Chang at hchang@ebce.org.

8. INTERPRETATION

EBCE shall not be responsible for nor be bound by any oral instructions, interpretations or explanations issued by EBCE or its representatives.

Should there be a need to clarify this RFP or any of its attachments, including but not limited to the EBCE Agreement, requests for clarification may be sent via e-mail at EBCE_e-Bikes_2022@ebce.org. Requests for clarification received after the deadline provided in Section 1.F: Schedule will not be considered.

9. CODE ADHERENCE AND POLICIES

Respondent shall agree to abide by all laws, rules and regulations of the United States, State of California, San Joaquin County, Alameda County, unincorporated Alameda County, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, Stockton, Tracy, and Union City.

10. TERMS AND CONDITIONS OF AGREEMENT

Respondents shall enter into a Consulting Services Agreement with EBCE in substantial conformity with the selected proposal, as mutually modified during negotiations with EBCE. The EBCE Consulting Services Agreement outlines the EBCE's standard terms and conditions between EBCE and the successful Respondent. EBCE reserves the right to negotiate project deliverables and associated costs.

The Consulting Services Agreement will require the Respondent to adhere to the terms of their proposal and to act in accordance with all applicable laws and regulations. A Consulting Services Agreement shall not be binding or valid unless and until it is approved by the East Bay Community Energy Board of Directors and executed by an authorized representative of East Bay Community Energy.

11. INSURANCE REQUIREMENTS

The Selected Respondent, at Respondent's sole cost and expense and for the full term of the Agreement or any extension thereof, shall obtain and maintain insurance as required by EBCE.

All policies, endorsements, certificates, and/or binders shall be subject to approval by EBCE as to form and content. Insurance requirements are subject to amendment or waiver if so approved in writing by EBCE. The Selected Respondent agrees to provide EBCE with a copy of said policies, certificates, and/or endorsements.

12. PUBLIC NATURE OF PROPOSAL MATERIAL

All correspondence with EBCE including responses to this solicitation will become the exclusive property of EBCE and will become public records under the California Public Records Act (Cal. Government Code section 6250 et seq.) All documents that you send to EBCE will be subject to disclosure if requested by a member of the public. There are a very limited number of narrow exceptions to this disclosure requirement.

EBCE acknowledges that another party may submit information that the other party considers confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code sections 6254 and 6255) (Confidential Information).

Therefore, any proposal which contains language purporting to render all or significant portions of their proposal “Confidential”, “Trade Secret” or “Proprietary”, or fails to provide the exemption information required as described below will be considered a public record in its entirety subject to the procedures described below. Do not mark your entire proposal as “confidential”.

EBCE will not disclose any part of any proposal before it announces a recommendation for award, on the ground that there is a substantial public interest in not disclosing proposals during the evaluation process. After the announcement of a recommended award, all proposals received in response to this RFP will be subject to public disclosure.

In order to designate information as confidential, the Respondent must clearly stamp and identify the specific portion of the material designated with the word “Confidential” and provide a citation to the California Public Records Act that supports keeping the information confidential. Respondents should not over-designate material as confidential. Over-designation would include stamping entire pages or series of pages as confidential that clearly contain information that is not confidential. Upon request or demand of any third person or entity not a party to this Agreement (“Requestor”) for production, inspection and/or copying of information designated by Respondent as confidential information (such designated information, the “Confidential Information”), EBCE will notify the Respondent as soon as practical that such request has been made. The Respondent shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be Confidential Information and to prevent release of information to the Requestor by EBCE. If the Respondent takes no such action after receiving the foregoing notice from EBCE, EBCE shall be permitted to comply with the Requestor’s demand and is not required to defend against it.

If required by any law, statute, ordinance, a court, Governmental Authority or agency having jurisdiction over EBCE, including the California Public Records Act, EBCE may release Confidential Information, or a portion thereof, as required by the Applicable Law, statute, ordinance, decision, order or regulation. In the event EBCE is required to release Confidential Information, they shall notify the Respondent of the required disclosure, such that the Respondent

may attempt (if it so chooses), at its sole cost, to cause the recipient of the Confidential Information to treat such information in a confidential manner, and to prevent such information from being disclosed or otherwise becoming part of the public domain.