



## Staff Report Item 15

**TO:** East Bay Community Energy Board of Directors

**FROM:** Howard Chang, COO & Treasurer

**SUBJECT:** Auditor Appointment (Action Item)

**DATE:** September 26, 2018

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### Recommendation

1. Adopt a resolution appointing Pisenti & Brinker LLP to complete the audit of EBCE's annual financial statements for the years ending June 30, 2017 and June 30, 2018.
2. Approve an agreement with Pisenti & Brinker, LLP for audit services in the amount of \$11,250, for a term ending 6/30/19.

### Discussion

Following the launch of EBCE providing service to customers in June 2018, EBCE is currently preparing to complete the first audit of its annual financial statements as specified in Section 14.14.3 of the JPA. The audit will review EBCE's financial statements, disclosures, and accounting & control processes. These materials will be jointly developed by EBCE staff, the County Auditor's office, and Maher Accounting. Staff is recommending Pisenti & Brinker LLP (P&B), based out of Santa Rosa. P&B has extensive experience in the public sector and in completing financial audits of CCAs, including Sonoma Clean Power, Silicon Valley Clean Energy, and Peninsular Clean Energy as well as other public agencies such as water and transportation authorities. Furthermore, they have worked with Maher Accounting in completing multiple audits for CCAs. The target completion date of the audit is the end of October, which will allow EBCE to meet reporting requirements with certain vendors and energy suppliers.

Staff sought feedback from the County Auditor's office for recommendations. After soliciting information regarding experience, availability, and costs from 3 audit firms, staff recommend P&B as the top choice. One of the contacted audit firms based in Oakland, CA, Williams, Adley & Co. was not available to complete this audit under this timeframe and informally endorsed P&B as a strong selection. Given P&B's knowledge of the CCA industry, energy practices, and public agencies staff believes this audit will be completed thoroughly and efficiently. Furthermore, P&B can advise on any control measures that can be improved.

The audit will be completed based on Generally Accepted Accounting Standards (GAAS) and will include a review of the County and Barclays loan balances along with accrued interest, all

historical expenses incurred since inception, and one month of accrued revenue through the month of June 2018. Other tasks include:

- Perform procedures to ascertain design and implementation of internal controls of significant financial processes
- Confirming all cash and investment balances
- Confirming any debt balances
- Perform tests of accounts receivable and accrued income on energy sales
- Perform tests of energy sales revenue recognized
- Perform tests over energy purchase payables and accrued energy costs
- Perform tests of expenses incurred and related payables
- Perform tests over related party transactions (e.g. JPA members) for appropriate presentation and disclosure
- Evaluate presentation and disclosure of financial statements and related footnotes for material conformity with GAAP
- Other procedures determined to be necessary based on the results of the audit procedures and as required by professional standards

Throughout the audit process, P&B will be actively communicating with staff to ensure a rigorous review process and engage with certain board members to ensure the audit appropriately assesses staff and management controls and oversight.

Attachments:

- A. Resolution Appointing Auditor; and
- B. Consulting Services Agreement

**RESOLUTION NO. \_\_\_\_\_**  
**A RESOLUTION OF THE BOARD OF DIRECTORS**  
**OF THE EAST BAY COMMUNITY ENERGY AUTHORITY**  
**APPOINTING AND INDEPENDENT AUDITOR**

THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY DOES HEREBY FIND, RESOLVE AND ORDER AS FOLLOWS:

Section 1. The East Bay Community Energy Authority (“EBCE”) was formed 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 and energy-related climate change programs in all of the member jurisdictions.

Section 2. Section 4.14.3 of the EBCE Joint Powers Agreement obligates the Board of Directors to appoint an auditor to audit EBCE’s books and records.

Section 3. Pisenti & Brinker, LLP, has and is performing independent audits for other community choice aggregators.

Section 4. The EBCE Board hereby appoints Pisenti & Brinker, LLP, to conduct an independent audit of EBCE’s books and records for the years ending June 30, 2017, and June 30, 2018.

ADOPTED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Scott Haggerty, Chair

ATTEST:

\_\_\_\_\_  
Stephanie Cabrera, Clerk of the Board

**Consulting Services Agreement  
By And Between East Bay Community Energy Authority and  
Pisenti & Brinker LLP for Audit Services**

This Consulting Services Agreement (“Agreement”) is made this 26<sup>th</sup> day of September, 2018, (“Effective Date”) by and between East Bay Community Energy Authority, a joint powers authority formed under the laws of the State of California (“EBCE”) and Pisenti & Brinker LLP, a California limited liability partnership (“Consultant”) for the purpose of providing audit services to EBCE.

**Section 1. Recitals**

1.1 The Authority is an independent joint powers authority duly organized under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) (“Act”) with the power to conduct its business and enter into agreements.

1.2 Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein.

**NOW THEREFORE**, for good and valuable consideration, the amount and sufficiency of which is hereby acknowledged, the Parties to this Agreement, agree as follows:

**Section 2. Term**

The term of this Agreement is from the Effective Date of this Agreement through June 30, 2019, unless terminated earlier pursuant to Section 8.

**Section 3. Scope of Work/Compliance with Laws and Regulations**

3.1 Consultant agrees to perform the scope of work (the “Work”) in Exhibit A in accordance with the compliance schedule in Exhibit B. The parties agree that the Indemnity on page 3 and the Claim Resolution section on page 4 of Exhibit A do not apply and that if any other provisions in any exhibit conflict with the terms and conditions of this Agreement, the terms and conditions in this Agreement will control.

**3.2** Consultant represents and warrants that it has the skill and expertise to perform the Work. Consultant agrees to obtain any and all necessary licenses, approvals or permits necessary to perform the Work.

**3.3** Consultant and its Subconsultants must comply with all federal, state and local laws and regulations in performing the Work under this Agreement.

#### **Section 4. Consultant Staffing**

Exhibit C contains a list of Consultant's project manager and all team members. Consultant will not change or substitute the project manager or any team members or add additional team members without EBCE's advanced consent.

#### **Section 5. Subconsultants**

**5.1** Consultant agrees to use only those Subconsultants listed on Exhibit D. Any changes to Exhibit D to add or remove a Subconsultant must be approved by EBCE in advance, in its sole and absolute discretion.

**5.2** Consultant agrees to require all Subconsultants to comply with the terms of this Agreement, including without limitation, maintaining insurance in compliance with the insurance obligations under Section 9, the Confidentiality requirements under Section 11 and indemnifying EBCE under Section 12.

#### **Section 6. Compensation and Payment**

**6.1** The maximum compensation under this Agreement is Eleven Thousand Two Hundred Fifty Dollars (\$11,250).

**6.2** If the Work under this Agreement is to be performed on a time and materials basis, Consultant must submit invoices to EBCE on a monthly basis complete with the name of the individual that conducted the Work, the time spent and a brief description of the tasks performed during that time. On all invoices, Consultant must include the total compensation left on the Agreement after deducting the amount of the invoice and must submit invoices to EBCE by the 20<sup>th</sup> of the month following the month in which Consultant performed the Work.

**6.3** If the Work under this Agreement is to be performed on a task or project basis, the Consultant will submit an invoice within thirty (30) days of completing the project to the satisfaction of EBCE for full payment, unless other arrangements have been made.

**6.4** EBCE will not agree to pay any markups on Subconsultant Services or supplies unless such markups are included in Exhibit E, Compensation/Budget and such markups were included in Consultant's bid, if applicable.

**6.5** The following are conditions on EBCE's obligation to process any payments under this Agreement:

**6.5.1** If the Consultant is a U.S. based person or entity, the Consultant must provide to EBCE a properly completed Internal Revenue Service Form W-9 before EBCE will process payment. If the Consultant is a U.S. based person or entity, but has neither a permanent place of business in California nor is registered with the California Secretary of State to do business in California, the Consultant must provide EBCE with a properly completed California Franchise Tax Board form related to nonresident withholding of California source income before EBCE will process payment.

**6.5.2** If the Consultant is not a U.S. based person or entity, the Consultant must provide EBCE with the applicable Internal Revenue Service form related to its foreign status and a California Franchise Tax Board form related to nonresident withholding before EBCE will process payment.

**6.6** EBCE agrees to pay invoices within forty-five (45) days of receipt. Invoices may be sent to EBCE by U.S. mail or electronic mail to [AP@ebce.org](mailto:AP@ebce.org). Invoices will be deemed received on the next business day following the date of transmission via electronic mail or three days after placement in the U.S. mail.

**6.7** EBCE, as a Joint Powers Authority, is a separate public entity from its constituent members and will be solely responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Consultant acknowledges that it will have no rights and agrees not to make any claims, take any actions or assert any remedies against any of EBCE's constituent members in connection with this Agreement.

## **Section 7. Records Retention and Ownership of Work Product**

**7.1** The Consultant must retain all ledgers, books of accounts, invoices, vouchers, cancelled checks, background materials, or other records relating to its performance under this Agreement for a period of three years following termination of this Agreement.

**7.2** EBCE owns all rights, including without limitation, all licenses, copyrights, service marks and patents, in and to all Work Product(s), whether written or electronic, without

restriction or limitation upon their use and immediately when and as created by the Consultant, any Subconsultants, or any other person engaged directly or indirectly by the Consultant to perform under this Agreement. Work Product(s) includes, but is not limited to, all writings, reports, drawings, plans, data, video, media, photographs, renderings, plans, software, models, documents or other materials developed or discovered under this Agreement. All Work Product(s) will be considered “works made for hire.” And all Work Product(s) and any and all intellectual property rights arising from their creation will be and remain the property of EBCE without restriction or limitation upon their use, duplication or dissemination by EBCE. Consultant agrees not to obtain or attempt to obtain copyright protection in its own name for any Work Product.

### **Section 8. Termination**

**8.1** EBCE may terminate this Agreement for any reason by giving Consultant written notice. The termination notice may set the date of termination, but if no such date is given, termination is effective seven (7) days following the date of the written notice.

**8.2** EBCE may terminate this Agreement immediately upon written notice for any material breach of this Agreement by Consultant or any of its Subconsultants. If EBCE terminates this Agreement for cause and obtains the same services from another consultant at a greater cost, the Consultant is responsible for such excess costs in addition to any other remedies available to EBCE.

**8.3** Upon termination for any reason, EBCE has the option of requiring the Consultant to complete work up to the date of termination or to cease work immediately. EBCE has the further option to require Consultant to provide EBCE any finished or unfinished Work or Work Product prepared by the Consultant up to the date of termination.

**8.4** EBCE will pay Consultant the reasonable value of services satisfactorily rendered by the Consultant to EBCE up to the date of written Notice of Termination. If EBCE authorizes Consultant to continue performing the Work through the date of termination, EBCE will pay Consultant the reasonable value of services satisfactorily rendered up through the date of termination, providing such services are in compliance with the Compensation/Budget in Exhibit E.

**8.5** Upon termination of this Agreement, and at no cost to EBCE, Consultant, its Subconsultants and anyone working for EBCE under control of Consultant must return all Work Product to EBCE. Consultant may only retain copies of the Work Product by express written permission of EBCE.

## **Section 9. Insurance**

**9.1** Consultant must procure, maintain and comply with the insurance requirements in Exhibit F throughout the full Term of this Agreement. Consultant must provide proof of insurance either in the form of a certificate of insurance or, if requested by EBCE, a copy of the insurance policy, prior to performing any work under this Agreement.

**9.2** Consultant agrees not to terminate any of the required insurance coverage during the term of this Agreement. Consultant must give EBCE ten (10) days written notice and obtain EBCE's written approval prior to making any modifications in the insurance coverage.

**9.3** Consultant must either include Subconsultants under its insurance policies or require each Subconsultant to comply with the insurance obligations in Exhibit F.

## **Section 10. No Discrimination or Conflict of Interest**

**10.1** Consultant represents and warrants, on behalf of itself and its Subconsultants, that it has not and will not discriminate against anyone based on his/her age, color religion, sex, sexual orientation, disability, race or national origin.

**10.2** Consultant represents and warrants, on behalf of itself and its Subconsultants, that it is familiar with local, state and federal conflict of interest laws, that in entering into this Agreement it is not violating any of the conflict of interest laws, that it will avoid any conflicts of interest during the term of this Agreement, and that it will notify EBCE immediately if it identifies any conflicts of interest Consultant understands that violations of this Section 10 could result in immediate termination of this Agreement and disgorgement of compensation.

**10.3** In accordance with the California Political Reform Act (Cal. Gov't Code section 81000 *et seq.*), Consultant will cause each of the following people performing services under this Agreement to file a Form 700 within 30 days after the person begins performing services under this Agreement and subsequently in conformance with the requirements of the Political Reform Act by filing the original with the EBCE Clerk to the Board of Directors. Each of the identified positions must disclose interests in accordance with the EBCE Resolution-2018-7, Conflict of Interest Code as may be amended from time to time.

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Name	Position or Assignment
<b>Brett Bradford</b>	

### **Section 11. Confidentiality**

**11.1** Except as authorized by EBCE or as otherwise required by law, Consultant shall not disclose to any third party(ies) any draft or final Work Product, discussions or written correspondence between Consultant and its Subconsultants or discussions or written correspondence between Consultant and EBCE staff. In the event Consultant receives a request from any third party requesting disclosure of any Work Product, discussions, communications or any other information Consultant is prohibited from disclosing, Consultant will immediately notify EBCE and wait for direction from EBCE before disclosing the information.

**11.2** For the purposes of this Section 11, “third parties” refers to any person or group other than EBCE staff and Board members. For example, “third parties” include community groups, Board advisory groups, other governmental agencies, other consultants or members of the community.

**11.3** This Section 11 will survive the expiration or termination of this Agreement.

### **Section 12. Indemnity**

**12.1** Consultant agrees, at its sole cost and expense, to indemnify, defend, with counsel reasonably approved by EBCE, protect and hold harmless EBCE, its officers, directors, employees, agents, attorneys, designated volunteers, successors and assigns, and those EBCE agents serving as independent contractors in the role of EBCE staff (collectively “Indemnitees”) from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, penalties, judgements, liens and losses of whatever nature that arise, directly or indirectly, in whole or in part, out of or are in any way related to Consultant’s or Subconsultant’s performance or failure to perform the Work under this Agreement, regardless of whether

the Consultant or its Subconsultants acted or failed to act intentionally, willfully, recklessly or negligently. Consultant agrees that its indemnity and defense obligations include all costs and expenses, including all attorney fees, expert fees, mediation, arbitration, or court costs in connection with the defense. Consultant further agrees to indemnify, defend, protect and hold harmless Indemnitees from and against any breach of this Agreement and any infringement of patent rights, trade secret, trade name, copyright, trademark, service mark or any other proprietary right of any person(s) caused by EBCE's use of any services, Work Product or other items provided by Consultant or its Subconsultants under this Agreement.

**12.2** Consultant's obligations in Subsection 11.1 do not apply to the extent any claim, loss, damage, injury, expense or liability that results from the sole negligence or willful misconduct of Indemnitees or resulting from EBCE's or its directors, or employees negligent or fraudulent failure to provide accurate or complete financial information to Consultant, which consultant reasonably relied up in performing its work under this contract.

**12.3** Consultant's obligation to defend EBCE applies to the maximum extent allowed by law and includes defending Indemnitees as set forth in California Civil Code sections 2778 and 2782.8.

**12.4** The Consultant's obligations under Section 12 applies regardless of the existence or amount of insurance the Consultant carries or has made available to EBCE.

**12.5** The Parties agree that this Section 12 survives the expiration or earlier termination of the Agreement.

### **Section 13. Consultant is an Independent Contractor**

**13.1** Consultant and its Subconsultant(s) are and at all times will be independent contractors. Consultant has complete control over its operations and employees and is not an agent or employee of the EBCE, and must not represent or act as the EBCE's agent or employee. Consultant agrees, on behalf of itself and its employees and Subconsultants, that it does not have any rights to retirement benefits or other benefits accruing to EBCE employees, and expressly waives any claim it may have to any such rights.

**13.2** As an independent contractor, Consultant has complete control over its Subconsultants, Sub, suppliers, affiliates agents and any other person or entity with whom the Consultant contracts in furtherance of this Agreement (collectively "Subconsultants"). Subject to the requirements of Section 5 of this Agreement, Consultant is solely responsible for selecting, managing and compensating its Subconsultants, and for ensuring they comply with this Agreement.

## **Section 14. Miscellaneous Terms and Conditions**

### **14.1 EBCE Authority.**

The Chief Executive Officer or his/her designee is authorized to take all actions under this Agreement, including without limitation, amendments that fall within the Chief Executive Officer's signing authority, termination or modification of terms.

### **14.2 Waiver.**

Waiver by either party of any one or more conditions, Sections, provisions or performance of this Agreement will not be a waiver of any other provision; nor will failure to enforce a provision or Section in one instance waive the right to enforce such provision or Section in the future. In no event will payment by EBCE to Consultant constitute or be construed as a waiver by EBCE of any breach or default of this Agreement, nor will such payment prejudice any of EBCE's other rights or remedies.

### **14.3 Governing Law.**

Consultant and EBCE agree that this Agreement will be interpreted under the laws of the State of California.

### **14.4 Venue.**

Any litigation resulting from this Agreement will be filed and resolved by a state court in Alameda County, California, or if appropriate, the federal courts in the Northern District of California located in San Francisco.

### **14.5 Audit Rights.**

All records or documents required to be kept pursuant to this Agreement must be made available for audit at no cost to EBCE, at any time during regular business hours, upon written request by EBCE. Copies of such records or documents shall be provided to EBCE at EBCE's offices unless an alternative location is mutually agreed upon.

### **14.6 Recitals and Exhibits.**

The Recitals in Section 1 above are intentionally made a part of this Agreement. All Exhibits and any other documents incorporated by reference are a part of this Agreement.

### **14.7 Notices.**

Any notices required to be given under this Agreement must be made in writing and may be delivered a) personally, in which case they are effective upon receipt; b) by U.S. Mail, in which case they are effective three (3) days following deposit in the U.S. Mail, unless accompanied by a return receipt in which case, they are effective upon the date

on the receipt; or c) by electronic mail, in which case they are effective upon confirmation of receipt, and if no confirmation of receipt, they are effective one day after transmission, providing that a hard copy is also sent via U.S. mail. All notices must be sent to the addresses below:

EBCE

Attn: Howard Chang  
C/o WeWork  
1111 Broadway, 3<sup>rd</sup> Floor  
Oakland, CA 94607

Email: hchang@ebce.org  
Phone: 510-809-7458

Consultant

Attn: Brett Bradford  
Pisenti & Brinker LLP  
3562 Round Barn Circle, Suite 300  
Santa Rosa, CA 95403

Email: bbradford@pbllp.com  
Phone: 707-577-1582

**14.8 Assignment.**

Except to the extent this Agreement authorizes Consultant to use Subconsultants, Consultant will not assign any part of this Agreement without the EBCE's prior written consent. EBCE, at its sole discretion, may void this Agreement if a violation of this provision occurs.

**14.9 Integrated Agreement.**

The Recitals, this Agreement and the Exhibits attached to this Agreement contain the complete understanding between EBCE and Consultant and supersedes any prior or contemporaneous negotiations, representations, agreements, understandings and statements, written or oral respecting the Work up through the Effective Date of this Agreement.

**14.10 Amendments.**

Any and all amendments or modifications to this Agreement must be made in writing and signed by each Party before such amendment will be effective.

**14.11 Government Claims Act.**

Nothing in this Agreement waives the requirements to comply with the Governmental Claims Act, where applicable.

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**14.12 Severability.**

If a court of competent jurisdiction holds any Section or part of this Agreement to be invalid or unenforceable for any reason and the Work can still be performed, the Parties agree to sever the invalid or unenforceable Section from this Agreement and that all remaining Sections or parts of this Agreement will continue to be enforceable.

**IN WITNESS WHEREOF**, the duly authorized representatives of the Parties have executed this Agreement on the dates below to be effective upon the Effective Date.

**EBCE**, a California Joint Powers Authority      Pimenti & Brinker, LLP, a California limited liability partnership

Scott Haggerty,  
Chair of the Board of Directors

By:  
Title:

Date:

Date:

Approved as to form:

Leah S. Goldberg  
General Counsel

## LIST OF EXHIBITS

EXHIBIT A: SCOPE OF WORK

EXHIBIT B: SCHEDULE

EXHIBIT C: CONSULTANT STAFFING

EXHIBIT D: SUBCONSULTANTS

EXHIBIT E: COMPENSATION/BUDGET

EXHIBIT F: INSURANCE REQUIREMENTS

## **EXHIBIT A**

### **SCOPE OF WORK**

Consultant will perform an audit of the annual financial statements for the periods ended June 30, 2017 and 2018 of EBCE, which comprise the statements of net position, the related statements of changes in net position, and cash flows for the periods then ended, and the related notes to the financial statements. The audit will be conducted with the objective of expressing an opinion on the financial statements.

The audit will be conducted in accordance with auditing standards generally accepted in the United States of America (GAAS). Those standards require that the Consultant plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

Procedures to be performed include those required under AICPA standards for the performance of financial statement audits and include at a minimum:

- Perform procedures to ascertain design and implementation of internal controls of significant financial processes
- Confirming all cash and investment balances
- Confirming any debt balances
- Perform tests of accounts receivable and accrued income on energy sales
- Perform tests of energy sales revenue recognized
- Perform tests over energy purchase payables and accrued energy costs
- Perform tests of expenses incurred and related payables
- Perform tests over related party transactions (e.g. JPA members) for appropriate presentation and disclosure
- Evaluate presentation and disclosure of financial statements and related footnotes for material conformity with GAAP
- Other procedures determined to be necessary based on the results of the audit procedures and as required by professional standards

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS. Also, an audit is not designed to detect errors or fraud that are immaterial to the financial statements.

In making risk assessments, Consultant considers internal control relevant to the Organization's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the Organization's internal control. However, Consultant will communicate any

significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that Consultant has identified during the audit.

Consultant will also communicate to the Board of Directors (a) any fraud involving senior management and fraud (whether caused by senior management or other employees) that causes a material misstatement of the financial statements that becomes known during the audit, and (b) any instances of noncompliance with laws and regulations that Consultant becomes aware of during the audit (unless they are clearly inconsequential).

### **The Responsibilities of Management and Identification of the Applicable Financial Reporting Framework**

The audit will be conducted on the basis that management and, when appropriate, those charged with governance acknowledge and understand that they have responsibility:

1. For the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America;
2. To evaluate subsequent events through the date the financial statements are issued or available to be issued. Management also agrees that it will not evaluate subsequent events earlier than the date of the management representation letter referred to below;
3. For the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; and
4. To provide Consultant with:
  - a. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the financial statements such as records, documentation and other matters;
  - b. Additional information that we may request from management for the purpose of the audit; and
  - c. Unrestricted access to persons within the Organization from whom Consultant determines it necessary to obtain audit evidence.

As part of the audit process, Consultant will request from management written confirmation concerning representations made in connection with the audit, including among other items:

1. That management has fulfilled its responsibilities as set out in the terms of this letter; and
2. That it believes the effects of any uncorrected misstatements aggregated during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

Management is responsible for identifying and ensuring that the Organization complies with the laws and regulations applicable to its activities, and for informing Consultant about all known material violations of such laws or regulations. In addition, management is responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing Consultant about all known or suspected fraud affecting the Organization involving management, employees who have significant roles in internal control, and others where the fraud could have a material effect on the financial statements. Management is also responsible for informing Consultant of its knowledge of any allegations of fraud or suspected fraud affecting the

Organization received in communications from employees, former employees, analysts, regulators, or others.

Management is responsible for the preparation of the required supplementary information (RSI) in accordance with accounting principles generally accepted in the United States of America. Management agrees to include the auditor's report on the RSI in any document that contains the supplementary information and indicates that the auditor has reported on such RSI. Management also agrees to present the supplementary information with the audited financial statements or, if the supplementary information will not be presented with audited financial statements, to make the audited financial statements readily available to the intended users of the supplementary information no later than the date of issuance of the supplementary information and the auditor's report thereon.

Consultant will engage with select members of the Board of Directors and such Directors are responsible for informing the Consultant of its views about the risks of fraud within the Organization, and its knowledge of any fraud or suspected fraud affecting the Organization.

### **Records and Assistance**

If circumstances arise relating to the condition of the Organization's records, the availability of appropriate audit evidence or indications of a significant risk of material misstatement of the financial statements because of error, fraudulent financial reporting or misappropriation of assets which, in our professional judgment, prevent Consultant from completing the audit or forming an opinion, we retain the unilateral right to take any course of action permitted by professional standards, including declining to express an opinion or issue a report, or withdrawing from the engagement.

If, in connection with this audit, EBCE requests Consultant to perform accounting services necessary for the preparation of the financial statements (such as maintaining depreciation schedules, drafting the financial statements, etc.), EBCE agrees to designate an appropriate individual to oversee the services, make all management decisions involved in those services, evaluate the adequacy and results of the services, and accept responsibility for the results of the services.

### **Reporting**

Consultant will issue a written report upon completion of the audit of the Organization's financial statements. The report will be addressed to the Board of Directors of the Organization. Consultant cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for Consultant to modify its opinion, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement.

**EXHIBIT B**  
**SCHEDULE**

**Target completion date of this audit is October 29, 2018.**

**EXHIBIT C**  
**CONSULTANT STAFFING**

**Brett Bradford, CPA - Engagement Partner**

**Mathew Brewer, CPA - Engagement Manager**

**Kellin Gilbert, CPA – Engagement Quality Control Reviewer**

**Sharilyn Nielson - Audit Associate**

**EXHIBIT D  
SUBCONSULTANTS**

**None**

**EXHIBIT E**  
**COMPENSATION/BUDGET**

**\$11,250 for services rendered related to completing the full financial audit**

## Exhibit F

### INSURANCE REQUIREMENTS

A. Minimum Scope and Limits of Insurance. Consultant must procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000.00) per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of Two Million Dollars (\$2,000,000.00) per project or location. If Consultant is a limited liability company, the commercial general liability coverage must be amended so that Consultant and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of One Million Dollars (\$1,000,000.00) per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant must obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A.1) of this Exhibit F.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required, but Consultant must execute a declaration that it has no employees.

4) Professional Liability/Errors & Omissions Insurance with minimum limits of Two Million Dollars (\$2,000,000.00) per claim and in aggregate.

B. Acceptability of Insurers. The insurance policies required under this Exhibit F must be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide.

C. Additional Insured/Additional Named Insured. The automobile liability policies must contain an endorsement naming EBCE, its officers, employees, agents and volunteers as additional insureds. The commercial general liability policy must

contain an endorsement naming EBCE, its officers, employees, agents and volunteers as additional named insureds.

D. Primary and Non-Contributing. The insurance policies required under this Agreement must apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to EBCE. Any insurance or self-insurance maintained by EBCE, its officers, employees, agents or volunteers, will be in excess of Consultant's insurance and will not contribute with it.

E. Consultant's Waiver of Subrogation. The insurance policies required under this Agreement will not prohibit Consultant and Consultant's employees, agents or Subconsultants from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against EBCE.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by EBCE. At EBCE's option, Consultant must either reduce or eliminate the deductibles or self-insured retentions with respect to EBCE, or Consultant must procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Consultant agrees not to cancel any insurance coverage during the Term. Consultant further agrees not to, reduce or otherwise modify the insurance policies required by this Agreement during the term of this Agreement, without the prior written approval of EBCE. The commercial general and automobile liability policies required under this Agreement must be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to EBCE. If any insurance policy required under Agreement is canceled or reduced in coverage or limits, Consultant must, within two business days of notice from the insurer, phone and notify EBCE via electronic mail and certified mail, return receipt requested, of the cancellation of or reductions to any policy.

H. EBCE Remedy for Noncompliance. If Consultant does not maintain the policies of insurance required under this Agreement in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements of this Exhibit F, EBCE may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, EBCE may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant must promptly reimburse EBCE for any premium paid by EBCE or EBCE, in its sole discretion, may withhold amounts sufficient to pay the premiums from payments due to Consultant.

I. Evidence of Insurance. Prior to the performance of Services under this Agreement, Consultant must furnish EBCE with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Agreement. The endorsements are subject to EBCE's approval. EBCE may request, and Consultant must provide complete, certified copies of all required

insurance policies to EBCE. Consultant must maintain current endorsements on file with EBCE. Consultant must provide proof to EBCE that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant must furnish such proof at least two weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Consultant will not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify EBCE under Section 12 of this Agreement.

K. Subconsultant Insurance Requirements. Consultant's insurance coverage must include its Subconsultants or Consultant must require each of its Subconsultants that perform Work under this Agreement to maintain insurance coverage that meets all of the requirements of this Exhibit F.