



TO: Mayor and Councilmembers

FROM: Peter Imhof, Planning and Environmental Review Director

CONTACT: Cindy Moore, Sustainability Coordinator

SUBJECT: Approval of Joining Monterey Bay Community Power Authority and the First Reading of the Community Choice Energy Ordinance

RECOMMENDATION:

- A. Introduce and conduct the first reading by title only, waiving further reading of Ordinance No. 19-___ entitled "An Ordinance of the City of Goleta, California, Specifying the Intent to Implement a Community Choice Aggregation Program By and Through Participation in Monterey Bay Community Power Authority's Community Choice Aggregation Program." (Attachment 1)
- B. Adopt Resolution No. 19-___, entitled "A Resolution of the City Council of the City of Goleta, California, Requesting Membership in the Monterey Bay Community Power Joint Powers Authority (MBCPA)." (Attachment 2)
- C. Determine the above recommended actions are not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15378(a) of the CEQA Guidelines (Title 14 California Code of Regulations), because the activity is not a "project" as it has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment because energy will be transported through existing infrastructure, and Section 15061(b)(3), because there is no possibility that it would have a significant effect on the environment, and Section 15308, because it is an action taken by a regulatory agency to assume the maintenance, restoration, enhancement or protection of the environment. (Attachment 4)
- D. Consider and approve rescission of Resolution 18-41, which directed City staff to pursue formation of a new Joint Powers Authority and Community Choice Energy program. (Attachment 5)
- E. Authorize the City Manager to execute the Joint Powers Authority Agreement with MBCP, in substantial conformance with Attachment 3, with amendments as proposed in this staff report and approved by the City Attorney. (Attachment 3)

- F. Approve a budget appropriation of \$7,500 from the General Fund Sustainability Reserve Account to the Sustainability Program (account 101-5-4500-500) for the City's Cost Share to Update MBCP's Implementation Plan and JPA agreement.
- G. Direct staff to negotiate a Memorandum of Understanding with staff of the Cities of Carpinteria and Guadalupe, as appropriate, to provide a collaborative and fair strategy for MBCP representation and return to Council for final approval.

BACKGROUND:

Community Choice Energy

Assembly Bill 117 was passed by the California Legislature in 2002 to establish Community Choice Aggregation (CCA), also known as Community Choice Energy (CCE). This law enables cities, counties and other authorized entities to aggregate electricity demand within their jurisdictions to purchase and/or generate electricity supplies for residents and businesses within their jurisdiction. The existing investor-owned utility (IOU) continues to provide for billing, physical transmission and distribution services. Southern California Edison (SCE) is the IOU in our region. The day-to-day experience for the customer is the same; the difference being that the energy is purchased through the CCE. The CCE model is an opt-out program, so all eligible customers are enrolled in the CCE's service upon the stated implementation date. Customers can opt out at any time and return back to bundled service with SCE.

CCEs are typically created to provide a higher percentage of renewable or carbon-free electricity, such as wind and solar, at competitive and lower rates than existing investor-owned utilities, while giving consumers local choices and promoting local economic development. Currently, there are nineteen CCE programs in operation throughout California, serving close to 10 million customers.¹

Relationship to Council's 100% Renewable Electricity Goal

The recently adopted Strategic Energy Plan (SEP) was developed as a roadmap to identify how the City could reach its adopted 100% Renewable Electricity goal by 2030. The SEP identifies strategies in five program areas for the City to prioritize in order to meet its goal. CCE contributes significantly to the goal, at approximately 64% of the combined strategies contribution (or approximately 30% overall), as a CCE allows the community to determine what type of energy mix serves its needs, in addition to facilitating other strategies based on CCE operational benefits.

Previous Council Direction and Milestones

In 2015, the County of Santa Barbara as the lead agency, along with ten jurisdictions and the Community Environmental Council, created Central Coast Power, a consortium to fund a feasibility study to help determine whether CCE is a good fit for the Tri-County

¹ For a list of operational and in-development CCE programs, please visit <https://cleanpowerexchange.org/california-community-choice/>.

Region (Santa Barbara, Ventura and San Luis Obispo). At that time, Council authorized the City's participation via data sharing.

In December 2017, staff presented the results of the Tri-County CCE study and peer review, which found no financially viable options for CCE at the regional level. At that time, Council authorized participation in an additional feasibility study to assess the viability of CCE for all or part of Santa Barbara County.

In July 2018, staff presented favorable results of the Santa Barbara County feasibility study, which concluded that the scenarios studied could offer cleaner electricity at a comparable rate to PG&E or SCE, as applicable. In response, Council adopted Resolution No.18-41, a Resolution of Intent authorizing City staff to participate in discussions with the County of Santa Barbara and the Cities of Santa Barbara and Carpinteria in anticipation of the formation of a new Joint Powers Authority (JPA) and CCE program launch.

Since the local municipalities opted to discuss formation of a CCE JPA in July 2018, the formation plans for a local program were paused due to several pending policy changes at the State level as well as lack of interest by North County jurisdictions to participate in CCE. These items raised concerns about the applicability of the previous study results, so Pacific Energy Advisors, Inc. (PEA), the consultant, was re-engaged to conduct an updated feasibility assessment. The update considered these factors and included adjustments to account for increased wholesale power prices and utility generation rates for residential customers.

The City Council's Energy / Green Issues Standing Committee received updates on the CCE process twice between July 2018 and June 2019. Staff returned to the Green Committee on July 8, 2019 to provide a briefing on the results of the updated study. PEA concluded that a CCE program for Santa Barbara County appears financially viable, although positive operating margins would be lower than the original study.

The results of the update were presented to the full Council at the July 16, 2019 meeting along with options to continue with a formation of a Santa Barbara County CCE program, join another existing CCE program or discontinue further exploration of CCE. Based on action taken by the Board of Supervisors earlier that day to join Monterey Bay Community Power, the City's available options for moving forward with a CCE program were focused on joining an existing program. The Council expressed unanimous support for joining Monterey Bay Community Power and directed staff to return with appropriate documents for the August 20, 2019 meeting.

DISCUSSION:

Monterey Bay Community Power

Begun in early 2018, Monterey Bay Community Power is the first tri-county community choice energy program that serves the Counties of Santa Cruz, San Benito, and Monterey, as well as 16 incorporated cities therein. Currently, MBCP has approximately

275,000 customers and that number will increase to approximately 305,000 in early 2020, once the recently joined Cities of Morro Bay and San Luis Obispo are enrolled and begin electric service. Some key components of MBCP are highlighted below:

- **Financial Health** - MBCP has been able to pay off initial start-up debt and build reserves of approximately \$70 million as of June 2019. MBCP estimates reaching its reserve target by late 2020 or early 2021, which would allow greater flexibility on rates and programs. Currently, the MBCP financial policy for net revenues is to allocate 70% towards reserves and 30% for rebates in FY 2018-2019 and once the reserve target is met, 50% of reserves will be put towards energy programs and 50% will be put towards rebates.
- **Rate Structure & Service Offerings** - The basic product provided by MBCP is known as “MBchoice,” which is carbon-free, provided at rates that are identical to the rates of the incumbent utility (PG&E currently), on a monthly basis, and includes a rebate provided by MBCP as a bill credit pursuant to a pre-defined schedule. Customers received a 3% rebate off their MBCP electric generation charges in Fiscal Year 2017/18 and 3.7% in Fiscal Year 2018/19. Customers may choose to opt up to “MBprime,” which supports 100% California wind and solar. MBprime is set at \$0.01/kWh above MBCP default rates. For South County jurisdictions interested in a 100% renewable energy default product, MBCP has indicated that such an offering would be possible and the added cost would also be approximately \$0.01/kWh, but the rate impact analysis would be refined by MBCP once usage data is received from SCE.

There are also additional rebate options including “MBgreen+” and “MBshare” which allow customers to donate their rebate to local renewable generation projects or to regional non-profits that lower greenhouse gas emissions and support low income rate-payers. For homes and businesses with rooftop solar that generates power in excess of the premises’ needs on an annual basis, MBCP offers a net energy metering (NEM) rate that is more than double the standard PG&E rate. Additionally, customers who receive financial assistance through CARE/FERA, Medical Baseline and LIHEAP do not need to re-apply and will continue to receive their electric discounts when enrolled in MBCP.

- **Governance and Representation** - MBCP has a Policy Board, which meets quarterly and is comprised of elected officials, and an Operations Board, which meets eight times per year and is comprised of city managers and county administrative officers. MBCP also has a Community Advisory Council. Members of the Community Advisory Council are community members appointed at large by the Policy Board. Of the 21 jurisdictions in MBCP, the three counties and three jurisdictions with population of 50,000 or greater hold six Board seats. The additional six Board seats are shared by multiple jurisdictions based on geography. Based on initial discussions with MBCP management, should the City of Goleta and the City of Carpinteria join, the two cities would share a seat in each of the three bodies.

- **Energy Programs and Local Economic Benefits:** MBCP re-invests 2% of revenue into local energy programs focused on transportation and building electrification and distributed energy resources. MBCP currently offers an electric vehicle incentive program as well as a solar effort to support low income customers. MBCP evaluates and deploys a suite of energy programs each year with considerable input from business and agricultural stakeholders, community members and MBCP's three boards. MBCP has rebated over \$4.4 million dollars to customers in calendar year 2018. MBCP estimates over \$8 million in bill savings in calendar year 2019.
- **Energy Procurement:** MBCP procures carbon-free energy on the wholesale market through a variety of energy suppliers and contract lengths. MBCP's portfolio mix meets the State's renewable portfolio standard, with the remaining sources coming from large hydro-electric suppliers. Recently, MBCP teamed with Silicon Valley Clean Energy² to sign contracts for California's largest solar-plus-storage project, as well as a joint-procurement project from a 200-megawatt wind farm, which will come online in 2021 and meet 20% of the current electrical demand. MBCP's energy procurement is supported by its energy risk management policy.
- **Billing and Customer Service:** From a customer perspective, all billing and payments to the utility stay the same. MBCP would assume the role of electric generation supplier and replaces the charges and cost of electricity supply from the utility. Customers can call Monterey Bay Community Power's call center to discuss all aspects of their bill as well as learn about upcoming events and programs. Customers may also call the utility to discuss their bill.
- **Santa Barbara County Presence:** MBCP is committed to unifying the Central Coast under one community choice energy program. To that end, MBCP has expressed a willingness to set up a satellite office for Santa Barbara County members and is open to re-branding the agency to a more fitting title, which includes the words "Central Coast" in it.

Although joining MBCP would result in some loss of local control, the benefits of joining a large operationally and financially sound community choice energy program are compelling. As mentioned above, the existing program has existing governance, staff, vendors and operations, credit and reserves, and has already covered initial startup costs. Joining MBCP provides the lowest cost, lowest risk path forward. Additionally, the size of MBCP allows it to be more resilient to fluctuations in the regulatory and market environments.

CCE Implementing Ordinance and Joint Powers Agreement

² Silicon Valley Clean Energy is a CCE program serving the jurisdictions of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Saratoga, Sunnyvale and unincorporated parts of Santa Clara County.

Section 366.2(c)(12)(B) of the Public Utilities Code expressly contemplates the creation of a JPA so that counties and cities can "participate as a group in a community choice aggregation program." California cities and counties can exercise this option by doing two things: 1) entering into a Joint Powers Agreement forming a JPA under Section 6500 et seq. of the Government Code; and 2) adopting an Ordinance electing to implement a community choice program within its jurisdiction as required by Section 366.2(c)(12)(A).

To join MBCP and have it serve customers beginning in calendar year 2021, the following steps would need to be accomplished:

1. The City Council would need to (1) adopt a CCE ordinance authorizing the implementation of a community choice aggregation program by participating in Monterey Bay Community Power Authority's community choice aggregation program, and (2) adopt a resolution joining MBCP and authorizing execution of its JPA Agreement.
2. The City Council would need to do a second reading of the ordinance.

An Ordinance that complies with the requirements of Section 366.2(c)(12)(B) is included as Attachment 1. If approved and introduced, staff will present the Ordinance for a second reading at the September 3, 2019 meeting. The supporting resolution to join the JPA and amended MBCP JPA Agreement are provided as Attachment 2 and Attachment 3. Per Section 3 of the resolution, staff requests that Council authorize the City Manager to execute the JPA Agreement with MBCP, in substantial conformance with Attachment 3, with some minor amendments as proposed here, as approved by the City Attorney's office. Such changes would include adding the City of Goleta and potentially adding language that would amend Section 5.3.4 Credit Guarantee Requirement, to clarify that the City of Goleta is not required to provide a credit guarantee. This section includes language from when MBCP launched, but MBCP has since paid off all lines of credit and loans as of September 2018, so no new community is required to provide a credit guarantee.

A party may withdraw its participation in the CCE program pursuant to terms identified in the JPA. Prior to program launch, a party may withdraw its membership without any financial obligation if, after MBCP receives bids from power suppliers, the bids do not result in 1) Rates equal to or less than SCE, 2) GHG emission rates lower than SCE, or 3) Renewable energy power content higher than SCE. This action requires a 15-day notice to the JPA board and affirmative vote. Following program launch, a minimum six-month notice and affirmative vote of the board is required for withdrawal to take effect at the beginning of the next fiscal year and the party would be liable for applicable costs through the termination date.

Considerations for Moving Forward with Community Choice Energy

Actions by Adjacent Jurisdictions

The following is a summary of the most recent CCE activities for the County of Santa Barbara and the Cities of Carpinteria, Guadalupe, Santa Maria and Santa Barbara.

- **The County of Santa Barbara** staff presented the results from PEA's study to the Board of Supervisors on July 16, 2019 and, as stated previously, the Board took initial action to join MBCP. Staff will return to the Board on August 13th for the second reading of the ordinance to authorize the implementation of a community choice aggregation program by participating in MBCP.
- **The City of Carpinteria** staff took an informational item to their City Council on July 8, 2019 with the results of the PEA updated study and will return on August 26th to present options for consideration to move forward with CCE, including the option to join MBCP.
- **The City of Santa Barbara** staff engaged PEA in additional analysis of a City of Santa Barbara-only scenario and evaluated options for creating its own CCE program. Staff reviewed these options with the Santa Barbara City Council CCE Subcommittee during meetings on June 24, July 3, and July 17, 2019. On July 23rd, the City Council supported the staff recommendation to return on July 30th for Council action to adopt their Strategic Energy Plan and approve an agreement with the California Choice Energy Authority (CalChoice) for development of an implementation plan to form a CCE entity comprised solely of the City of SB and offering a 100% renewable energy option to its customers.
- **The City of Guadalupe** City Council considered joining MBCP at its meetings on July 9 and July 23, 2019. At the July 23rd meeting, the City Council took initial action to join MBCP and the item will return on August 27th for the second reading of the ordinance to authorize the implementation of a community choice aggregation program by participating in MBCP.
- **The City of Santa Maria** City Council considered joining MBCP at its meeting of May 21, 2019, but took no action pending outcome of the County of Santa Barbara's meeting on July 16, 2019. It is anticipated that the City will consider the item again at an August council meeting.

Next Steps

MBCP is encouraging all interested communities to submit the required documentation in August in order to effectively update the Implementation Plan and Joint Powers Authority agreement to file with the California Public Utilities Commission by December 2019.

This tight turn-around time is necessary because MBCP would need to update its Implementation Plan and JPA agreement by the end of this year in order to be able to enroll customers and start service in 2021. The end of year deadline is related to CPUC Resolution E-4907 rules that require an implementation plan be filed by a CCE one year prior to serving customers. Action in August would allow MBCP to notify its Board and get authorization prior to filing with the CPUC by the end of the year. Alternatively, the City

could wait, but this would delay enrollment and service to customers by one year.

The following is an estimated outline of the project schedule through 2021:

Activity	Date
City introduce and pass resolution to join MBCP and conduct first reading of the CCE ordinance.	August 20, 2019
Public hearing to conduct second reading of the CCE ordinance.	September 3, 2019
Submit required documents (resolution and ordinance) to MBCP	September 4, 2019
MBCP Policy Board Meeting to accept the City of Goleta as a member of the JPA.	September 4, 2019
MBCP Policy Board Meeting to approve and submit the Implementation Plan to the CPUC.	November 2019
Program Implementation and Operations Preparation	Mid 2020 – Late 2020
Begin MBCP Service	Early 2021

Additional Actions and Coordination with the Cities of Carpinteria and Guadalupe

Should Council take action to join MBCP, staff will work with MBCP to update their Implementation Plan for submittal to the CPUC by January 1, 2020. Prior to this submittal, staff will return to Council for consideration of and direction on the default energy service offering and associated rate impact analysis. At such time, staff will also request that the Council present its preference for the initial Policy Board member.

As mentioned above, the City of Guadalupe took initial action to join MBCP on July 23rd, and the City of Carpinteria will consider the option of joining MBCP on August 26th. Should the City of Carpinteria proceed with joining MBCP, MBCP staff has clarified that the Cities of Goleta, Carpinteria and Guadalupe would share a seat on MBCP's Policy Board and Operations Board. MBCP staff indicate that the shared seat structure would likely be temporary (one to three years). At such time as action is considered by the Cities of Solvang and/or Buellton, if either Solvang or Buellton joined MBCP, Guadalupe would then share these cities' North County seat and Goleta and Carpinteria would share a seat. MBCP's current board structure allows for rotating jurisdictions on both the Policy Board and Operations Board so there can be one jurisdiction representative on the Policy Board and another jurisdiction representative on the Operations Board and those seats rotate every one or two years based on the arrangement, so all jurisdictions have the opportunity represent their interests.

Given that this situation would require additional discussion between the cities about how to fairly share these seats in order to adequately represent the interests of all communities, staff requests that the Council direct staff to negotiate a Memorandum of Understanding (MOU) with the Cities of Carpinteria and Guadalupe, as appropriate, in order to identify a process for the cities to share these seats fairly so as to adequately

represent the interests of all communities. Staff would return to Council for final approval of the MOU.

Environmental Review

As described in Attachment 4, staff has assessed the environmental impact of establishment of a CCE in accordance with the State Guidelines for the Implementation of the California Environmental Quality Act ("CEQA") and found the establishment of a CCE is exempt from the requirements of CEQA, as it is not a "project" as it has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment because energy will be transported through existing infrastructure (14 Cal. Code Regs. § 15378(a)). Further, establishing a CCE is exempt from CEQA as there is no possibility that it would have a significant effect on the environment (14 Cal. Code Regs. § 15061(b)(3)). Further, the establishment of a CCE is also categorically exempt because it is an action taken by a regulatory agency to assume the maintenance, restoration, enhancement or protection of the environment (14 Cal. Code Regs. § 15308).

GOLETA STRATEGIC PLAN:

The recommended items in this report relate to the following 2019-2021 Strategic Plan strategies, goals, and objectives:

Strategic Goal: Adopt best practices in sustainability

Objective:

- Participate in the Central Coast Power consortium of local governments to explore the feasibility of Community Choice Energy

City-Wide Strategy: Support Environmental Vitality

Strategic Goal: Promote renewable energy, energy conservation and local energy resiliency

Objectives:

- Implement the Strategic Energy Plan in furtherance of the City's adopted 100% renewable energy goals
- Encourage energy conservation through enhanced insulation, LED replacement lighting and similar measures, including at City-owned facilities
- Encourage renewable energy generation and use through installation of solar panels, electric vehicle charging stations and similar measures, including at City-owned facilities
- Explore adoption of a "Reach" Building Code
- Continue to work with the Santa Barbara County Climate Collaborative to share resources to address climate change

FISCAL IMPACTS:

There is no cost to join MBCP. However, the City would need to cover incremental costs associated with updating MBCP's Implementation Plan and JPA agreement, which are required to be filed with the CPUC. MBCP staff estimate that it will require an

approximately one-time \$7,500 contribution from each interested jurisdiction for this effort. The City's actual cost share could be reduced depending upon other agency participation.

Funding of \$7,500 for the incremental costs associated with updating MBCP's documents was not included during the FY 2019/20 and FY 2020/21 Budget adoption on June 18, 2019, as it preceded Council direction on CCE. However, City Council authorized an assigned fund balance reserve account be established of \$300,000 for the City's future sustainability efforts. Staff is therefore requesting an additional "one-time" appropriation of \$7,500 from the Sustainability Reserve account to the Professional Services account (101-5-4500-500) in the Sustainability Program. The table below summarizes the recommended \$7,500 appropriation.

Community Choice Energy, FY 19/20					
Fund	GL Account	FY 19/20 Budget	FY 19/20 YTD Actuals + Enc.	Recommended Appropriation	Total Available Budget
General Fund	101-5-4500-500	\$26,000	\$26,000	\$7,500	\$7,500

If approved, approximately \$292,500 will be available in this reserve account for future sustainability efforts.

ALTERNATIVES:

Council may direct staff to join another existing CCE program, explore other options for creating a CCE, or discontinue further exploration of CCE at this time.


Reviewed By:

Legal Review By:

Approved By:


Kristine Schmidt
Deputy City Manager


Michael Jenkins
City Attorney


Michelle Greene
City Manager

ATTACHMENTS:

1. Ordinance No. 19-___ entitled "An Ordinance of the City of Goleta, California, Specifying the Intent to Implement a Community Choice Aggregation Program by and Through Participation in Monterey Bay Community Power Authority's Community Choice Aggregation Program."
2. Resolution No. 19-___, entitled "A Resolution of the City Council of the City of Goleta, California, Requesting Membership in the Monterey Bay Community Power Joint Powers Authority (MBCPA)."
3. Monterey Bay Community Power Authority Joint Powers Agreement
4. CEQA Notice of Exemption
5. Resolution No. 18-41, entitled "A Resolution of the City Council of the City of Goleta, California, Affirming the City's Intent to Participate in Governance and Financing Discussions for a Proposed Community Choice Energy Joint Powers Authority"

ATTACHMENT 1

Ordinance No. 19-____ entitled “An Ordinance of the City of Goleta, California, Specifying the Intent to Implement A Community Choice Aggregation Program By and Through Participation in Monterey Bay Community Power Authority’s Community Choice Aggregation Program”

ORDINANCE NO. 19-__

AN ORDINANCE OF THE CITY OF GOLETA, CALIFORNIA, SPECIFYING THE INTENT TO IMPLEMENT A COMMUNITY CHOICE AGGREGATION PROGRAM BY AND THROUGH PARTICIPATION IN MONTEREY BAY COMMUNITY POWER AUTHORITY'S COMMUNITY CHOICE AGGREGATION PROGRAM

WHEREAS the City Council has previously directed staff to investigate the feasibility and formation of a Community Choice Aggregation (CCA) program under the provisions of the Public Utilities Code section 366.2 in order to provide electric service to customers within the City of Goleta (City) with the intent of achieving greater local control and involvement related to the provision of electric service in the City, and offering energy with lower greenhouse gas emissions at a comparable rate to the Investor-Owned Utility in the City; and

WHEREAS Monterey Bay Community Power Authority (MBCPA) is an established CCA program capable of providing the desired financial and environmental benefits, and

WHEREAS the City's participation in MBCPA's CCA Program requires that the City Council, among other things, adopt a resolution requesting that the City become a member of MBCPA; adopt an ordinance pursuant to Public Utilities Code section 366.2(c)(12) electing to implement the CCA Program within its jurisdiction; and execute an amendment to the MBCPA's Joint Powers Agreement; and

WHEREAS the City's participation in MBCPA's CCA Program requires that MBCPA, among other things, adopt a resolution authorizing the City's membership in MBCPA's CCA Program; execute an amendment to the MBCPA's Joint Powers Agreement; and prepare and submit an amended Implementation Plan to the California Public Utilities Commission (CPUC) for certification; and

WHEREAS, upon completion of all necessary actions by the City and MBCPA, as well as certification of the amended Implementation Plan by the CPUC, and adoption by MBCPA, MBCPA will be able to enter into agreements with electric power suppliers and other service providers and, based upon those agreements, MBCPA will be able to provide power to residents and businesses at rates that are competitive with those of the incumbent utility, Southern California Edison ("SCE"); and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt-out of a CCA program and continue to receive service from the

incumbent utility. Customers who wish to receive service from the incumbent utility will be able to do so; and

WHEREAS, on July 16 and August 20, the City Council held public meetings on the manner in which the City will participate in a CCA program at which time interested persons had an opportunity to testify either in support of or opposition to the implementation of a CCA program serving the City through MBCPA.

THE CITY COUNCIL OF THE CITY OF GOLETA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitations are true and correct and material to this Ordinance.

SECTION 2. Based upon the above, and pursuant to Public Utilities Code section 366.2, the City Council of the City of Goleta hereby elects and specifies the intent to implement a community choice aggregation program within the City's jurisdiction by and through the City's participation in the Monterey Bay Community Power Authority's existing Community Choice Aggregation Program.

SECTION 3. The City of Goleta's joining as a member of Monterey Bay Community Power Authority requires additional actions by both the City of Goleta and Monterey Bay Community Power Authority, including mutual execution of an amendment to Monterey Bay Community Power Authority's Joint Powers Agreement and other necessary CCA Program agreements.

SECTION 4. CEQA.

This ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, as it is not a "project" as it has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment (14 Cal. Code Regs. § 15378(a)). Further, the ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant effect on the environment (14 Cal. Code Regs. § 15061(b)(3)). The ordinance is also categorically exempt because it is an action taken by a regulatory agency to assume the maintenance, restoration, enhancement or protection of the environment (14 Cal. Code Regs. § 15308).

SECTION 5. Severability.

This ordinance is adopted under the authority of City Council of the City of Goleta and State law. If any section, subsection, clause or phrase is declared invalid or otherwise void by a court of competent jurisdiction, it shall not affect any remaining provision hereof. In this regard City Council finds and declares that it would have adopted this measure notwithstanding any partial invalidity hereof.

SECTION 6. Certification of City Clerk.

The City Clerk shall certify to the adoption of this ordinance and, within 15 days after its adoption, shall cause it to be published in accord with California Law.

SECTION 7. Effective Date.

This ordinance shall take effect on the 31st day following adoption by the City Council.

INTRODUCED ON the **20th** day of August 2019.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2019.

PAULA PEROTTE, MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ
CITY CLERK

MICHAEL JENKINS
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, do hereby certify that the foregoing Ordinance No. 19-__ was introduced on _____, and adopted at a regular meeting of the City Council of the City of Goleta, California, held on the _____, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK

ATTACHMENT 2

Resolution No. 19-___, entitled “A Resolution of the City Council of the City of Goleta, California, Requesting Membership in the Monterey Bay Community Power Joint Powers Authority (MBCPA)”

RESOLUTION NO. 19-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA, REQUESTING MEMBERSHIP IN THE MONTEREY BAY COMMUNITY POWER JOINT POWERS AUTHORITY (MBCPA)

WHEREAS AB 117, adopted as California state law in 2002, permits cities, counties, or Joint Power Authorities comprised of cities and counties to aggregate residential, commercial, industrial, municipal and institutional electric loads through community choice aggregation (CCA); and

WHEREAS, pursuant to Section 366.2, subdivision (c)(12)(B), of the Public Utilities Code, two or more entities authorized to be a community choice aggregator may participate as a group in a community choice aggregation program through a joint powers agency established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, if each entity adopts an ordinance pursuant to Section 366.2, subdivision (c)(12)(A), electing to implement a community choice aggregation program within its jurisdiction; and

WHEREAS, in March 2017, MBCPA was established as a joint powers agency pursuant to a joint powers agreement; and

WHEREAS, the purpose of MBCPA is to address climate change by providing locally controlled carbon-free electricity at affordable rates; and

WHEREAS, the City Council of the City of Goleta supports the mission of MBCPA and its intent to promote the development and use of a wide range of carbon free and renewable energy sources and energy efficiency programs, including solar and wind energy production at competitive rates for customers; and

WHEREAS, in order for the City of Goleta (City) to become a member of MBCPA, among other things, the City and MBCPA must execute an amendment to MBCPA's Joint Powers Agreement (JPA); and

WHEREAS, MBCPA's Operating Rules and Regulations require the City to adopt a resolution requesting membership in MBCPA; and

WHEREAS on July 17, 2018, the City of Goleta adopted Resolution 18-41, entitled "A Resolution of the City Council of the City of Goleta, California, Affirming the City's Intent to Participate in Governance and Financing Discussions for a Proposed Community Choice Energy Joint Powers Authority", which authorized City staff to participate in discussions in anticipation of JPA formation for a Santa Barbara County CCE program and Resolution 18-41 should be repealed in light of the City's current desire to join the MCBPA; and

WHEREAS, the City wishes to implement a community choice aggregation program within the City's jurisdiction through participation in the Monterey Bay Community Power Authority's existing Community Choice Aggregation Program, and the City has adopted the ordinance required by Public Utilities Code Section 366.2 in order to do so; and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt-out of the CCA Program and continue to receive service from the incumbent utility.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLETA, AS FOLLOWS:

SECTION 1. The City Council of the City of Goleta requests the Board of Directors of MBCPA approve the City of Goleta as a member of MBCPA.

SECTION 2. The City of Goleta's joining as a member of Monterey Bay Community Power Authority requires additional actions by both the City and MBCPA, including mutual execution of an amendment to MBCPA's Joint Powers Agreement and other necessary CCA Program agreements.

SECTION 3. The Mayor or City Manager is hereby authorized and directed to execute the JPA on behalf of the City after the JPA is amended, which will establish the City's membership in MBCPA.

SECTION 4. Resolution No. 18-41, entitled "A Resolution of the City Council of the City of Goleta, California, Affirming the City's Intent to Participate in Governance and Financing Discussions for a Proposed Community Choice Energy Joint Powers Authority" is repealed.

SECTION 5. CEQA.

This resolution is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, as it is not a "project" as it has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment (14 Cal. Code Regs. § 15378(a)). Further, the ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant effect on the environment (14 Cal. Code Regs. § 15061(b)(3)). The ordinance is also categorically exempt because it is an action taken by a regulatory agency to assume the maintenance, restoration, enhancement or protection of the environment (14 Cal. Code Regs. § 15308).

SECTION 6. This Resolution will remain effective until superseded by a subsequent resolution.

SECTION 7. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 20th day of August 2019.

PAULA PEROTTE, MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ
CITY CLERK

MICHAEL JENKINS
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA)
CITY OF GOLETA) ss.

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, DO
HEREBY CERTIFY that the foregoing Resolution No. 19-__ was duly adopted by
the City Council of the City of Goleta at a regular meeting held on the 20th day of
August, 2019, by the following vote of the Council:

AYES:

NOES:

ABSENT:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK

ATTACHMENT 3

Monterey Bay Power Authority Resolution 4-2017, “Resolution to Adopt the Implementation Plan As Required by the Public Utilities Code Section 366.2 (c)(3)”

BEFORE THE POLICY BOARD OF
MONTEREY BAY COMMUNITY POWER AUTHORITY

RESOLUTION NO. 4-2017

On the motion of
Duly seconded by
The following resolution is adopted

RESOLUTION TO ADOPT THE IMPLEMENTATION PLAN AS REQUIRED BY THE PUBLIC UTILITIES
CODE SECTION 366.2 (c)(3)

WHEREAS, THE Monterey Bay Community Power Authority ("the Authority") was formed on February 21, 2017 pursuant to a Joint Powers Agreement to study, promote, develop, conduct, operate, and manage energy and energy related climate change programs included but not limited to implementing a community choice aggregation program under Public Utilities Code Section 366.2; and

WHEREAS, the members of MBCP include the counties of Monterey, Santa Cruz and San Benito and the cities of Santa Cruz, Watsonville, Salinas, Monterey, Pacific Grove, Carmel, Seaside, Marina, Sand City, Soledad, Greenfield, Gonzales, Hollister, San Juan Bautista, Scotts Valley and Capitola; and

WHEREAS, Public Utilities Code Section 366.2 requires that before commencing a community choice aggregation program, the Authority first must prepare and adopt an Implementation Plan to be filed with the California Public Utilities Commission; and

WHEREAS, the draft MBCP Community Choice Aggregation Implementation Plan and Statement of Intent was presented to the Policy Board at a duly noticed public hearing for its consideration and adoption, and is attached hereto as Exhibit A;

NOW, THEREFORE, after conducting a duly noticed public hearing as required by the Public Utilities Code Section 366.2 (c)(3), the Policy Board hereby adopts the Monterey Bay Community Power Community Choice Aggregation Implementation Plan and Statement of Intent.

PASSED AND ADOPTED by the Policy Board of Monterey Bay Community Power this 16th day of August 2017 by the following vote:

AYES: Delgado, McShane, Termini, Coffman-Gomez, Friend, Parker, Velazquez; Chair McPherson

NOES: None

ABSENT: Brown, De La Cruz, Haffa, Rubio



Chair, Policy Board of MBCP

RESOLUTION NO. PB-2018-07**A RESOLUTION OF THE POLICY BOARD OF DIRECTORS OF THE MONTEREY BAY COMMUNITY POWER AUTHORITY APPROVING AMENDMENT NO. 1 TO ITS JOINT POWERS AGREEMENT TO ADD THE CITIES OF SAN LUIS OBISPO AND MORRO BAY AS PARTIES**

WHEREAS, the Monterey Bay Community Power ("Authority") was formed on February 21, 2017, pursuant to a Joint Powers Agreement to study, promote, develop, conduct, operate, and manage energy programs in Santa Cruz, Monterey and San Benito Counties and neighboring regions; and

WHEREAS, the Cities of San Luis Obispo and Morro Bay in San Luis Obispo County by resolution adopted by their City Councils have requested to become parties to the Authority's Joint Exercise of Powers Agreement and participate in the Authority's community choice aggregation program; and

WHEREAS, this request by the Cities of San Luis Obispo and Morro Bay requires an amendment to the Joint Exercise of Powers Agreement since the Agreement presently limits participation to cities located in Monterey, Santa Cruz and San Benito Counties; and

WHEREAS, Section 7.4 of the Authority's Joint Exercise of Powers Agreement authorizes the Policy Board by a two-thirds vote to amend the Joint Exercise of Powers Agreement after providing notice to all parties to the Agreement of the amendment and its effective date, which notice has been duly given; and

WHEREAS, this resolution and the amendment of the Joint Exercise Powers Agreement is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, as it is not a "project" because it involves organizational and administrative activities of government that will not result in direct or indirect physical changes in the environment. (14 Cal. Code Regs. §15378 (b)(5).) Further the resolution is exempt from CEQA, as there is no possibility that the resolution or its implementation would have a significant effect on the environment (14 Cal. Code Regs. §15061 (b)(3).) The resolution is also categorically exempt because it is an action taken by a regulatory agency to assure the maintenance, restoration, enhancement or protection of the environment. (14 Cal. Code Regs. §15308). The Authority will cause a Notice of Exemption to be filed as authorized by CEQA and the CEQA guidelines.

WHEREAS, the Authority wishes to amend the Joint Exercise of Powers Agreement to add the Cities of San Luis Obispo and Morro Bay as parties.

NOW, THEREFORE, the Policy Board of Directors of the Monterey Bay Community Power Authority does hereby resolve, determine, and order as follows:

1. The requests by the City of San Luis Obispo and the City of Morro Bay to become

members of Monterey Bay Community Power are hereby approved subject to the execution of the Joint Exercise of Powers Agreement as amended by these cities.

2. Amendment No. 1 to the Monterey Bay Community Power Joint Exercise of Powers Agreement is hereby approved.
3. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the Policy Board of the Monterey Bay Community Power Authority this 5th day of December 2018 by the following vote:

AYES: Brown, Coffman-Gomez, Termini, Parker, Delgado; Muenzer, Freeman; Vice Chair McShane; Chair McPherson

NOES: None


ABSENT: Haffa, Orozco

DISQUALIFIED: None



Chair, Bruce McPherson

Attest:



Board Clerk, Bren Lehr

**AMENDMENT NO. 1 TO MONTEREY BAY COMMUNITY POWER AUTHORITY
JOINT EXERCISE OF POWERS AGREEMENT**

This Amendment No. 1 amends the Monterey Bay Community Power Authority Joint Exercise of Powers Agreement (“Agreement”) as follows:

1. The title to the Agreement is hereby amended to read:

JOINT EXERCISE OF POWERS AGREEMENT RELATING TO AND CREATING THE

Monterey Bay Community Power Authority

OF

Monterey, Santa Cruz, and San Benito Counties and Certain Cities in San Luis Obispo County

2. The introductory paragraph to the Agreement is hereby amended to read:

This Joint Exercise of Powers Agreement, effective on the date determined by Section 2.1, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Sections 6500 et seq.) of the California Government Code relating to the joint exercise of powers among the Parties set forth in Exhibit B, establishes the Monterey Bay Community Power Authority (“Authority”), and is by and among the Counties of Monterey, Santa Cruz, and San Benito who become signatories to this Agreement (“Counties”), those cities and towns within the Counties of Monterey, Santa Cruz, and San Benito who become signatories to this Agreement and the Cities of San Luis Obispo and Morro Bay who become signatories to this Agreement, and relates to the joint exercise of powers among the signatories hereto.

3. Section 3.1.1 of the Agreement is hereby amended to read:

- 3.1.1 Both Boards shall consist of Directors representing any of the three Counties of Monterey, Santa Cruz, or San Benito that become a signatory to the Agreement, Directors representing any of the Cities or Towns within those counties that becomes a signatory to the Agreement, and Directors representing the cities of San Luis Obispo and Morro Bay (“Directors”). Each Director shall serve at the pleasure of the governing board of the Party who appointed such Director, and may be removed as Director by such governing board at any time. If at any time a vacancy occurs on the Board, a

replacement shall be appointed to fill the position of the previous Director within 90 days of the date that such position becomes vacant.

4. Section 3.1.5 of the Agreement is hereby amended to read:

3.1.5 Shared Board seats will be determined through the Mayors and Councilmembers' city selection process in their respective counties, with a term of two years except that the Cities of San Luis Obispo and Morro Bay shall determine the manner in which their shared seats shall be allocated. Directors may be reappointed, following the Mayors and Councilmembers' city selection process in their respective counties, or as determined by the Cities of San Luis Obispo and Morro Bay for their shared seats and serve multiple terms. In the event of an established Board seat transitioning to a shared seat due to the addition of a new party, the sitting Director will automatically be the first representative for that shared seat to ensure continuity and maintain experience.

5. Exhibit B, List of Parties, to the Agreement is hereby amended to add the City of San Luis Obispo and the City of Morro Bay.

6. Exhibit C, Regional Allocation, to the Agreement is hereby amended to add a new subsection xii to read:

xii. One shared seat for the Cities of San Luis Obispo and Morro Bay selected by the agreement of these two cities.

This Amendment No. 1 to the Monterey Bay Community Power Authority Joint Exercise of Powers Agreement was duly adopted by the Policy Board of Directors in accordance with Section 7.4 of this Agreement on December 5, 2018.

JOINT EXERCISE OF POWERS AGREEMENT RELATING TO AND CREATING THE

Monterey Bay Community Power Authority

OF

**Monterey, Santa Cruz, and San Benito Counties and Certain
Cities in San Luis Obispo County**

This Joint Exercise of Powers Agreement, effective on the date determined by Section 2.1, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Sections 6500 et seq.) of the California Government Code relating to the joint exercise of powers among the Parties set forth in Exhibit B, establishes the Monterey Bay Community Power Authority (“Authority”), and is by and among the Counties of Monterey, Santa Cruz, and San Benito who become signatories to this Agreement (“Counties”) those cities and towns within the Counties of Monterey, Santa Cruz, and San Benito who become signatories to this Agreement and the Cities of San Luis Obispo and Morro Bay who become signatories to this Agreement, and relates to the joint exercise of powers among the signatories hereto.

RECITALS

- A. The Parties share various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and customers within their jurisdictions.
- B. In 2006, the State Legislature adopted AB 32, the Global Warming Solutions Act, which mandates a reduction in greenhouse gas emissions in 2020 to 1990 levels. The California Air Resources Board is promulgating regulations to implement AB

32 which will require local governments to develop programs to reduce greenhouse gas emissions.

- C. The purposes for entering into this Agreement include:
- a. Reducing greenhouse gas emissions related to the use of power in Monterey, Santa Cruz, and San Benito Counties and neighboring regions;
 - b. Providing electric power and other forms of energy to customers at affordable rates that are competitive with the incumbent utility;
 - c. Carrying out programs to reduce energy consumption;
 - d. Stimulating and sustaining the local economy by lowering electric rates and creating local jobs as a result of MBCP's CCE program; and
 - e. Promoting long-term electric rate stability and energy security and reliability for residents through local control of electric generation resources.
- D. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to solar, wind, and geothermal energy production. The purchase of renewable power and greenhouse gas-free energy sources will be the desired approach to decrease regional greenhouse gas emissions and accelerate the State's transition to clean power resources to the extent feasible.
- a. It is further desired to establish a short-term and long-term energy portfolio that prioritizes the use and development of State, local and regional renewable resources and carbon free resources.
 - b. In compliance with State law and in alignment with the Authority's desire to stimulate the development of local renewable power, the Authority shall draft an Integrated Resource Plan that includes a range of local renewable development potential in the Monterey Bay Region and plans to incorporate

local power into its energy portfolio as quickly as is possible and economically feasible.

- E. The Parties desire to establish a separate public Authority, known as the Monterey Bay Community Power Authority, under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) (“Act”) in order to collectively study, promote, develop, conduct, operate, and manage energy programs.
- F. The Parties anticipate adopting an ordinance electing to implement through the Authority a common Community Choice Aggregation (CCA) program, an electric service enterprise available to cities and counties pursuant to California Public Utilities Code Sections 331.1(c) and 366.2. The first priority of the Authority will be the consideration of those actions necessary to implement the CCA Program.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Parties as follows:

ARTICLE 1: DEFINITIONS AND EXHIBITS

- 1.1. Definitions. Capitalized terms used in the Agreement shall have the meanings specified in Exhibit A unless the context requires otherwise.
- 1.2. Documents Included. This Agreement consists of this document and the following exhibits, all of which are hereby incorporated into this Agreement.

Exhibit A: Definitions

Exhibit B: List of the Parties

Exhibit C: Regional Allocations

ARTICLE 2: FORMATION OF MONTEREY BAY COMMUNITY POWER AUTHORITY

2.1. Effective Date and Term. This Agreement shall become effective and “Monterey Bay Community Power Authority” shall exist as a separate public Authority on the date that this Agreement is executed by at least three Initial Participants from the Counties of Monterey, Santa Cruz, and San Benito and the municipalities within those counties, after the adoption of the ordinances required by Public Utilities Code Section 366.2(c)(12). The Authority shall provide notice to the Parties of the Effective Date. The Authority shall continue to exist, and this Agreement shall be effective, until this Agreement is terminated in accordance with Section 6.4, subject to the rights of the Parties to withdraw from the Authority.

2.2. Formation. There is formed as of the Effective Date a public Authority named the Monterey Bay Community Power Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public Authority separate from the Parties. Pursuant to Sections 6508.1 of the Act, the debts, liabilities or obligations of the Authority shall not be debts, liabilities or obligations of the individual Parties unless the governing board of a Party agrees in writing to assume any of the debts, liabilities or obligations of the Authority. A Party who has not agreed to assume an Authority debt, liability or obligation shall not be responsible in any way for such debt, liability or obligation even if a majority of the Parties agree to assume the debt, liability or obligation of the Authority. Notwithstanding Section 7.4 of this Agreement, this Section 2.2 may not be amended unless such amendment is approved by the governing board of each Party.

2.3. Purpose. The purpose of this Agreement is to establish an independent public Authority in order to exercise powers common to each Party to study, promote, develop, conduct, operate, and manage energy, energy efficiency and conservation, and other energy-related programs, and to exercise all other powers necessary and incidental to accomplishing this purpose. Without limiting the generality of the foregoing, the Parties

intend for this Agreement to be used as a contractual mechanism by which the Parties are authorized to participate in the CCA Program, as further described in Section 4.1. The Parties intend that other agreements shall define the terms and conditions associated with the implementation of the CCA Program and any other energy programs approved by the Authority.

2.4. Powers. The Authority shall have all powers common to the Parties and such additional powers accorded to it by law. The Authority is authorized, in its own name, to exercise all powers and do all acts necessary and proper to carry out the provisions of this Agreement and fulfill its purposes, including, but not limited to, each of the following powers, subject to the voting requirements set forth in Section 3.7 through 3.7.1:

- 2.4.1. to make and enter into contracts;
- 2.4.2. to employ agents and employees, including but not limited to a Chief Executive Officer;
- 2.4.3. to acquire, contract, manage, maintain, and operate any buildings, infrastructure, works, or improvements;
- 2.4.4. to acquire property by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property; however, the Authority shall not exercise the power of eminent domain within the jurisdiction of a Party without approval of the affected Party's governing board;
- 2.4.5. to lease any property;
- 2.4.6. to sue and be sued in its own name;
- 2.4.7. to incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing

powers such as Government Code Sections 53850 et seq. and authority under the Act;

- 2.4.8. to form subsidiary or independent corporations or entities if necessary, to carry out energy supply and energy conservation programs at the lowest possible cost or to take advantage of legislative or regulatory changes;
- 2.4.9. to issue revenue bonds and other forms of indebtedness;
- 2.4.10. to apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state, or local public agency;
- 2.4.11. to submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCA Program and other energy programs;
- 2.4.12. to adopt Operating Rules and Regulations;
- 2.4.13. to make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer the CCA Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services; and
- 2.4.14. to permit additional Parties to enter into this Agreement after the Effective Date and to permit another entity authorized to be a community choice aggregator to designate the Authority to act as the community choice aggregator on its behalf.

2.5. Limitation on Powers. As required by Government Code Section 6509, the power of the Authority is subject to the restrictions upon the manner of exercising power possessed by the City of Santa Cruz and any other restrictions on exercising the powers of the authority that may be adopted by the board.

2.6. Compliance with Local Zoning and Building Laws and CEQA. Unless state or federal law provides otherwise, any facilities, buildings or structures located, constructed, or caused to be constructed by the Authority within the territory of the Authority shall comply with the General Plan, zoning and building laws of the local jurisdiction within which the facilities, buildings or structures are constructed and comply with the California Environmental Quality Act (“CEQA”).

ARTICLE 3: GOVERNANCE AND INTERNAL ORGANIZATION

3.1. Boards of Directors. The governing bodies of the Authority shall consist of a Policy Board of Directors (“Policy Board”) and an Operations Board of Directors (“Operations Board”).

3.1.1. Both Boards shall consist of Directors representing any of the three Counties of Monterey, Santa Cruz, or San Benito that become a signatory to the Agreement, Directors representing any of the Cities or Towns within those counties that becomes a signatory to the Agreement, and Directors representing the Cities of San Luis Obispo and Morro Bay (“Directors”). Each Director shall serve at the pleasure of the governing board of the Party who appointed such Director and may be removed as Director by such governing board at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed to fill the position of the previous Director within 90 days of the date that such position becomes vacant.

3.1.2. Policy Board Directors must be elected members of the Board of Supervisors or elected members of the City or Town Council of the municipality that is the signatory to this Agreement. Jurisdictions may appoint an alternate to serve in the absence of its Director on the Policy Board. Alternates for the Policy Board must be members of the Board of

Supervisors or members of the governing board of the municipality that is the signatory to this Agreement.

- 3.1.3. Operations Board Directors must be the senior executive/County Administrative Officer of any County that is the signatory to this Agreement, or senior executive/City Manager from any municipality that is the signatory to this Agreement. Jurisdictions may appoint an alternate to serve in the absence of its Director on the Operations Board. Alternates for the Operations Board must be administrative managers of the County or administrative managers of the governing board of the municipality that is the signatory to this Agreement.
- 3.1.4. Board seats will be allocated under the following formulas. Policy and Operations Board seats for founding JPA members (i.e. those jurisdictions that pass a CCA ordinance by February 28, 2017) will be allocated on a one jurisdiction, one seat basis until such time as the number of member jurisdictions exceeds eleven. Once the JPA reaches more than eleven-member agencies, the Policy and Operations Boards' composition shall shift to a regional allocation based on population size. This allocation shall be one seat for each jurisdiction with a population of 50,000 and above, and shared seats for jurisdictions with populations below 50,000 allocated on a sub-regional basis, as set forth in Exhibit C. Notwithstanding the above, the County of San Benito shall be allotted one seat.
- 3.1.5. Shared board seats will be determined through the Mayors and Councilmembers' city selection process in their respective counties, with a term of two years except that the Cities of San Luis Obispo and Morro Bay shall determine the manner in which their shared seats shall be allocated. Directors may be reappointed, following the Mayors and

Councilmembers' city selection process in their respective counties, or as determined by the Cities of San Luis Obispo and Morro Bay for their shared seats and serve multiple terms. In the event of an established board seat transitioning to a shared seat due to the addition of a new party, the sitting Director will automatically be the first representative for that shared seat to ensure continuity and maintain experience.

3.2. Quorum. A majority of the appointed Directors shall constitute a quorum, except that less than a quorum may adjourn in accordance with law.

3.3. Powers and Functions of the Boards. The Boards shall exercise general governance and oversight over the business and activities of the Authority, consistent with this Agreement and applicable law. The Boards shall provide general policy guidance to the CCA Program.

3.3.1. The Policy Board will provide guidance/approval in the areas of strategic planning and goal setting, passage of Authority budget and customer rates, and large capital expenditures outside the typical power procurement required to provide electrical service.

3.3.2. The Operations Board will provide oversight and support to the Chief Executive Officer on matters pertaining to the provision of electrical service to customers in the region, focusing on the routine, day-to-day operations of the Authority.

3.3.3. Policy Board approval shall be required for any of the following actions, including but not limited to:

(a) The issuance of bonds, major capital expenditures, or any other financing even if program revenues are expected to pay for such financing;

- (b) The appointment or removal of officers described in Section 3.9, subject to Section 3.9.3;
- (c) The appointment and termination of the Chief Executive Officer;
- (d) The adoption of the Annual Budget;
- (e) The adoption of an ordinance;
- (f) The setting of rates for power sold by the Authority and the setting of charges for any other category of service provided by the Authority;
- (g) The adoption of the Implementation Plan;
- (h) The selection of General Counsel, Treasurer and Auditor;
- (i) The amending of this Joint Exercise of Powers Agreement; and
- (j) Termination of the CCA Program.

3.3.4. Operations Board approval shall be required for the following actions, including but not limited to:

- (a) The approval of Authority contracts and agreements, except as provided by Section 3.4; and
- (b) Approval of Authority operating policies and other matters necessary to ensure successful program operations.

3.3.5. Joint approval of the Policy and Operations Boards shall be required for the initiation or resolution of claims and litigation where the Authority will be the defendant, plaintiff, petitioner, respondent, cross complainant or cross petitioner, or intervenor; provided, however, that the Chief Executive Officer or General Counsel, on behalf of the Authority, may

intervene in, become a party to, or file comments with respect to any proceeding pending at the California Public Utilities Commission, the Federal Energy Regulatory Commission, or any other administrative authority, without approval of the Boards as long as such action is consistent with any adopted Board policies.

3.4. Chief Executive Officer. The Authority shall have a Chief Executive Officer (“CEO”). The Operations Board shall present nomination(s) of qualified candidates to the Policy Board. The Policy Board shall make the selection and appointment of the CEO who will be an employee of the Authority and serve at will and at the pleasure of the Policy Board.

The CEO shall be responsible for the day-to-day operation and management of the Authority and the CCA Program. The CEO may exercise all powers of the Authority, including the power to hire, discipline and terminate employees as well as the power to approve any agreement if the total amount payable under the agreement falls within the Authority’s fiscal policies to be set by the Policy Board, except the powers specifically set forth in Section 3.3 or those powers which by law must be exercised by the Board(s) of Directors. The CEO shall report to the Policy Board on matters related to strategic planning and goal setting, passage of Authority budget and customer rates, and large capital expenditures outside the typical power procurement required to provide electrical service. The CEO shall report to the Operations Board on matters related to Authority policy and the provision of electrical service to customers in the region, focusing on the routine, day-to-day operations of the Authority. It shall be the responsibility of the CEO to keep both Board(s) appropriately informed and engaged in the discussions and actions of each to ensure cooperation and unity within the Authority.

3.5. Commissions, Boards, and Committees. The Boards may establish any advisory committees they deem appropriate to assist in carrying out the CCA Program, other energy programs, and the provisions of this Agreement which shall comply with the

requirements of the Ralph M. Brown Act. The Boards may establish rules, regulations, policies, bylaws or procedures to govern any such commissions, boards, or committees if the Board(s) deem it appropriate to appoint such commissions, boards or committees, and shall determine whether members shall be compensated or entitled to reimbursement for expanses.

3.6. Director Compensation. Directors shall serve without compensation from the Authority. However, Directors may be compensated by their respective appointing authorities. The Boards, however, may adopt by resolution a policy relating to the reimbursement by the Authority of expenses incurred by their respective Directors.

3.7. Voting. Except as provided in Section 3.7.1 below, actions of the Boards shall require the affirmative vote of a majority of Directors present at the meeting.

3.7.1. Special Voting Requirements for Certain Matters.

- (a) Two-Thirds Voting Approval Requirements Relating to Sections 6.2 and 7.4. Action of the Board on the matters set forth in Section 6.2 (involuntary termination of a Party), or Section 7.4 (amendment of this Agreement) shall require the affirmative vote of at least two-thirds of Directors present.
- (b) Seventy-Five Percent Special Voting Requirements for Eminent Domain and Contributions or Pledge of Assets.
 - i. A decision to exercise the power of eminent domain on behalf of the Authority to acquire any property interest other than an easement, right-of-way, or temporary construction easement shall require a vote of at least 75% of all Directors present.
 - ii. The imposition on any Party of any obligation to make contributions or pledge assets as a condition of continued participation in the CCA Program shall require a vote of at least

75% of all Directors and the approval of the governing boards of the Parties who are being asked to make such contribution or pledge.

- iii. For purposes of this section, “imposition on any Party of any obligation to make contributions or pledge assets as a condition of continued participation in the CCA Program” does not include any obligations of a withdrawing or terminated party imposed under Section 6.3.

3.8. Meetings and Special Meetings of the Board. The Policy Board shall hold up to three regular meetings per year, with the option for additional or special meetings as determined by the Chief Executive Officer or Chair of the Policy Board after consultation with the Chief Executive Officer. The Operations Board shall hold at least eight meetings per year, with the option for additional or special meetings. The date, hour and place of each regular meeting shall be fixed by resolution or ordinance of the Board. Regular meetings may be adjourned to another meeting time. Special and Emergency Meetings of the Boards may be called in accordance with the provisions of California Government Code Sections 54956 and 54956.5. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law. All meetings shall be conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code Sections 54950 et seq.).

3.9. Selection of Board Officers.

- 3.9.1. Policy Board Chair and Vice Chair. The Policy Board shall select, from among themselves, a Chair, who shall be the presiding officer of all Policy Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The Policy Board Chair and Vice Chair shall act as the overall Chair and Vice Chair for Monterey Bay Community Power Authority. The term of office of the Chair and Vice Chair shall continue

for one year, but there shall be no limit on the number of terms held by either the Chair or Vice Chair. The office of either the Chair or Vice Chair shall be declared vacant and a new selection shall be made if:

- (a) the person serving dies, resigns, is no longer holding a qualifying public office, or the Party that the person represents removes the person as its representative on the Board; or
- (b) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement.

3.9.2. Operations Board Chair and Vice Chair. The Operations Board shall select, from among themselves, a Chair, who shall be the presiding officer of all Operations Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The term of office of the Chair and Vice Chair shall continue for one year, but there shall be no limit on the number of terms held by either the Chair or Vice Chair. The office of either the Chair or Vice Chair shall be declared vacant and a new selection shall be made if:

- (a) the person serving dies, resigns, or is no longer the senior executive of the Party that the person represents or;
- (b) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement.

3.9.3. Secretary. Each Board shall appoint a Secretary, who need not be a member of the Board, who shall be responsible for keeping the minutes of all meetings of each Board and all other official records of the Authority. If the Secretary appointed is an employee of the Authority, that employee may serve as Secretary to both Boards.

3.9.4. The Policy Board shall appoint a qualified person to act as the Treasurer and a qualified person to act as the Auditor, neither of whom needs to be a

member of the Board. If the Board so designates, and in accordance with the provisions of applicable law, a qualified person may hold both the office of Treasurer and the office of Auditor of the Authority. Unless otherwise exempted from such requirement, the Authority shall cause an independent audit to be made by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall report directly to the Policy Board and shall comply with the requirements of treasurers of incorporated municipalities. The Board may transfer the responsibilities of Treasurer to any person or entity as the law may provide at the time. The duties and obligations of the Treasurer are further specified in Article 5.

3.10. Administrative Services Provider. The Board(s) may appoint one or more administrative services providers to serve as the Authority's agent for planning, implementing, operating and administering the CCA Program, and any other program approved by the Board, in accordance with the provisions of an Administrative Services Agreement. The appointed administrative services provider may be one of the Parties. An Administrative Services Agreement shall set forth the terms and conditions by which the appointed administrative services provider shall perform or cause to be performed all tasks necessary for planning, implementing, operating and administering the CCA Program and other approved programs. The Administrative Services Agreement shall set forth the term of the Agreement and the circumstances under which the Administrative Services Agreement may be terminated by the Authority. This section shall not in any way be construed to limit the discretion of the Authority to hire its own employees to administer the CCA Program or any other program. The Administrative Services Provider shall be either an employee or a contractor of the Authority unless a member agency is providing the service.

ARTICLE 4: IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS**4.1. Preliminary Implementation of the CCA Program.**

- 4.1.1. Enabling Ordinance. To be eligible to participate in the CCA Program, each Party must adopt an ordinance in accordance with Public Utilities Code Section 366.2(c)(12) for the purpose of specifying that the Party intends to implement a CCA Program by and through its participation in the Authority.
- 4.1.2. Implementation Plan. The Policy Board shall cause to be prepared an Implementation Plan meeting the requirements of Public Utilities Code Section 366.2 and any applicable Public Utilities Commission regulations as soon after the Effective Date as reasonably practicable. The Implementation Plan shall not be filed with the Public Utilities Commission until it is approved by the Policy Board in the manner provided by Section 3.7.
- 4.1.3. Termination of CCA Program. Nothing contained in this Article or this Agreement shall be construed to limit the discretion of the Authority to terminate the implementation or operation of the CCA Program at any time in accordance with any applicable requirements of state law.

4.2. Authority Documents. The Parties acknowledge and agree that the affairs of the Authority will be implemented through various documents duly adopted by the Board(s) through resolution, including but not limited to the MBCP Implementation Plan and Operating Policies. The Parties agree to abide by and comply with the terms and conditions of all such documents that may be adopted by the Board(s), subject to the Parties' right to withdraw from the Authority as described in Article 6.

ARTICLE 5: FINANCIAL PROVISIONS

- 5.1. Fiscal Year. The Authority's fiscal year shall be 12 months commencing April 1 or the date selected by the Authority. The fiscal year may be changed by Policy Board resolution.
- 5.2. Depository.
- 5.2.1. All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with funds of any Party or any other person or entity.
- 5.2.2. All funds of the Authority shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of the Authority shall be open to inspection by the Parties at all reasonable times. The Board(s) shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Authority, which shall be conducted in accordance with the requirements of Section 6505 of the Act.
- 5.2.3. All expenditures shall be made in accordance with the approved budget and upon the approval of any officer so authorized by the Board(s) in accordance with its Operating Rules and Regulations. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the prior approval of the Board(s).
- 5.3. Budget and Recovery of Costs.
- 5.3.1. Budget. The initial budget shall be approved by the Policy Board. The Board may revise the budget from time-to-time as may be reasonably necessary to address contingencies and unexpected expenses. All

subsequent budgets of the Authority shall be approved by the Policy Board in accordance with the Operating Rules and Regulations.

- 5.3.2. Funding of Initial Costs. The County of Santa Cruz has funded certain activities necessary to implement the CCA Program. If the CCA Program becomes operational, these Initial Costs paid by the County of Santa Cruz shall be included in the customer charges for electric services as provided by Section 5.3.3 to the extent permitted by law, and the County of Santa Cruz shall be reimbursed from the payment of such charges by customers of the Authority. Prior to such reimbursement, the County of Santa Cruz shall provide such documentation of costs paid as the Board may request. The Authority may establish a reasonable time-period over which such costs are recovered. In the event, that the CCA Program does not become operational, the County of Santa Cruz shall not be entitled to any reimbursement of the Initial Costs it has paid from the Authority or any Party.
- 5.3.3. CCA Program Costs. The Parties desire that all costs incurred by the Authority that are directly or indirectly attributable to the provision of electric, conservation, efficiency, incentives, financing, or other services provided under the CCA Program, including but not limited to the establishment and maintenance of various reserves and performance funds and administrative, accounting, legal, consulting, and other similar costs, shall be recovered through charges to CCA customers receiving such electric services, or from revenues from grants or other third-party sources.
- 5.3.4. Credit Guarantee Requirement. The Parties acknowledge that there will be a shared responsibility to provide some level of credit support (in the form of a letter of credit, cash collateral or interagency agreement) for

Authority start-up and initial working capital as may be required by a third-party lender. Guarantee requirements shall be released after program launch and as soon as possible under the terms of the third-party credit agreement(s). The credit guarantee will be distributed on a per-seat basis. Shared seat members will divide the credit guarantee among the cities sharing those seats. The term of the credit guarantee shall be the same term as specified in the banking agreement. Once a Party has made a credit guarantee, that guarantee shall remain in place until released, even if that Party withdraws from the Authority.

- 5.3.5. The County of Santa Cruz has agreed to provide initial administrative support on a cost reimbursement basis to the JPA once formed. This includes, but is not limited to, personnel, payroll, legal, risk management.

ARTICLE 6: WITHDRAWAL

6.1. Withdrawal.

- 6.1.1. Right to Withdraw. A Party may withdraw its participation in the CCA Program, effective as of the beginning of the Authority's fiscal year, by giving no less than 6 months advance written notice of its election to do so, which notice shall be given to the Authority and each Party. Withdrawal of a Party shall require an affirmative vote of the Party's governing board.
- 6.1.2. Right to Withdraw After Amendment. Notwithstanding Section 6.1.1, a Party may withdraw its membership in the Authority following an amendment to this Agreement adopted by the Policy Board which the Party's Director voted against provided such notice is given in writing within thirty (30) days following the date of the vote. Withdrawal of a Party shall require an affirmative vote of the Party's governing board and shall not be subject to the six-month advanced notice provided in Section

6.1.1. In the event of such withdrawal, the Party shall be subject to the provisions of Section 6.3.

6.1.3. The Right to Withdraw Prior to Program Launch. After receiving bids from power suppliers, the Authority must provide to the Parties the report from the electrical utility consultant retained by the Authority that compares the total estimated electrical rates that the Authority will be charging to customers as well as the estimated greenhouse gas emissions rate and the amount of estimated renewable energy used with that of the incumbent utility. If the report provides that the Authority is unable to provide total electrical rates, as part of its baseline offering, to the customers that are equal to or lower than the incumbent utility or to provide power in a manner that has a lower greenhouse gas emissions rate or uses more renewable energy than the incumbent utility, a Party may, immediately after an affirmative vote of the Party's governing board, withdraw its membership in the Authority without any financial obligation, except those financial obligations incurred through the Party's share of the credit guarantee described in 5.3.4, as long as the Party provides written notice of its intent to withdraw to the Authority Board no more than fifteen business days after receiving the report. Costs incurred prior to withdrawal will be calculated as a pro-rata share of start-up costs expended to the date of the Party's withdrawal, and it shall be the responsibility of the withdrawing Party to pay its share of said costs if they have a material/adverse impact on remaining Authority members or ratepayers.

6.1.4. Continuing Financial Obligation; Further Assurances. Except as provided by Section 6.1.3, a Party that withdraws its participation in the CCA Program may be subject to certain continuing financial obligations, as described in Section 6.3. Each withdrawing Party and the Authority shall

execute and deliver all further instruments and documents and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from participation in the CCA Program.

6.2. Involuntary Termination of a Party. Participation of a Party in the CCA program may be terminated for material non-compliance with provisions of this Agreement or any other agreement relating to the Party's participation in the CCA Program upon a vote of the Policy Board as provided in Section 3.7.1. Prior to any vote to terminate participation with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Party whose termination is proposed at least 30 days prior to the regular Board meeting at which such matter shall first be discussed as an agenda item. The written notice of proposed termination shall specify the particular provisions of this Agreement or other agreement that the Party has allegedly violated. The Party subject to possible termination shall have the opportunity at the next regular Board meeting to respond to any reasons and allegations that may be cited as a basis for termination prior to a vote regarding termination. A Party that has had its participation in the CCA Program terminated may be subject to certain continuing liabilities, as described in Section 6.3.

6.3. Continuing Financial Obligations: Refund. Except as provided by Section 6.1.3, upon a withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or other financial obligations arising from the Party membership or participation in the CCA Program through the date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any financial obligations arising after the date of the Party's withdrawal or involuntary termination. Claims, demands, damages, or other financial obligations for which a withdrawing or terminated Party may remain liable include, but are not limited to, losses from the resale of power contracted for by the Authority to serve the Party's load. With respect to such financial obligations, upon notice by a Party that it wishes to

withdraw from the CCA Program, the Authority shall notify the Party of the minimum waiting period under which the Party would have no costs for withdrawal if the Party agrees to stay in the CCA Program for such period. The waiting period will be set to the minimum duration such that there are no costs transferred to remaining ratepayers. If the Party elects to withdraw before the end of the minimum waiting period, the charge for exiting shall be set at a dollar amount that would offset actual costs to the remaining ratepayers and may not include punitive charges that exceed actual costs. In addition, such Party shall also be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreements relating to such program provided such costs or obligations were incurred prior to the withdrawal of the Party. The Authority may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority and approved by a vote of the Policy Board, to cover the Party's financial obligations for the costs described above. Any amount of the Party's funds held on deposit with the Authority above that which is required to pay any financial obligations shall be returned to the Party. The liability of any Party under this section 6.3 is subject and subordinate to the provisions of Section 2.2, and nothing in this section 6.3 shall reduce, impair, or eliminate any immunity from liability provided by Section 2.2.

6.4. Mutual Termination. This Agreement may be terminated by mutual agreement of all the Parties; provided, however, the foregoing shall not be construed as limiting the rights of a Party to withdraw its participation in the CCA Program, as described in Section 6.1.

6.5. Disposition of Property upon Termination of Authority. Upon termination of this Agreement, any surplus money or assets in possession of the Authority for use under this Agreement, after payment of all liabilities, costs, expenses, and charges incurred under this Agreement and under any program documents, shall be returned to the then-existing Parties in proportion to the contributions made by each.

ARTICLE 7: MISCELLANEOUS PROVISIONS

7.1. Dispute Resolution. The Parties and the Authority shall make reasonable efforts to informally settle all disputes arising out of or in connection with this Agreement. Should such informal efforts to settle a dispute, after reasonable efforts, fail, the dispute shall be mediated in accordance with policies and procedures established by the Authority. The costs of any such mediation shall be shared equally among the Parties participating in the mediation.

7.2. Liability of Directors, Officers, and Employees. The Directors, officers, and employees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. No current or former Director, officer, or employee will be responsible for any act or omission by another Director, officer, or employee. The Authority shall defend, indemnify and hold harmless the individual current and former Directors, officers, and employees for any acts or omissions in the scope of their employment or duties in the manner provided by Government Code Sections 995 et seq. Nothing in this section shall be construed to limit the defenses available under the law, to the Parties, the Authority, or its Directors, officers, or employees.

7.3. Indemnification of Parties. The Authority shall acquire such insurance coverage as is necessary to protect the interests of the Authority and the Parties. The Authority shall defend, indemnify, and hold harmless the Parties and each of their respective Boards of Supervisors or City Councils, officers, agents and employees, from any and all claims, losses, damages, costs, injuries, and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of the Authority under this Agreement.

7.4. Amendment of this Agreement. This Agreement may not be amended except by a written amendment approved by a vote of Policy Board members as provided in Section 3.7.1. The Authority shall provide written notice to all Parties of proposed amendments to

this Agreement, including the effective date of such amendments, at least 30 days prior to the date upon which the Board votes on such amendments.

7.5. Assignment. Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties in contravention of this Section 7.5 shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Parties. This Section 7.5 does not prohibit a Party from entering into an independent agreement with another agency, person, or entity regarding the financing of that Party's contributions to the Authority, or the disposition of proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the Parties under this Agreement.

7.6. Severability. If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Parties, that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provision shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

7.7. Further Assurances. Each Party agrees to execute and deliver all further instruments and documents and take any further action that may be reasonably necessary, to effectuate the purposes and intent of this Agreement.

7.8. Execution by Counterparts. This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

7.9. Parties to be Served Notice. Any notice authorized or required to be given pursuant to this Agreement shall be validly given if served in writing either personally, by deposit in the United States mail, first class postage prepaid with return receipt requested, or by a recognized courier service. Notices given (a) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt and (b) by mail shall be conclusively deemed given 48 hours after the deposit thereof (excluding Saturdays, Sundays and holidays) if the sender receives the return receipt. All notices shall be addressed to the office of the clerk or secretary of the Authority or Party, as the case may be, or such other person designated in writing by the Authority or Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties.

Monterey Bay Community Power Authority

Of

Monterey, Santa Cruz and San Benito Counties and Certain Cities in San Luis

Obispo County

Signature Page

CITY OF SAN LUIS OBISPO

Signature Heidi Harmon

12/5/18

Date

Its Mayor
Mayor/City Manager

APPROVED AS TO FORM:

[Signature]
Office of the City Attorney

Monterey Bay Community Power Authority

Of

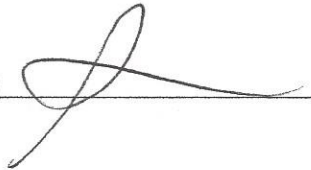
Monterey, Santa Cruz and San Benito Counties and Certain Cities in San Luis

Obispo County

Signature Page

CITY OF MORRO BAY

Signature



12/5/18

Date

Its Scott Collins, City Manager

Mayor/City Manager

APPROVED AS TO FORM:

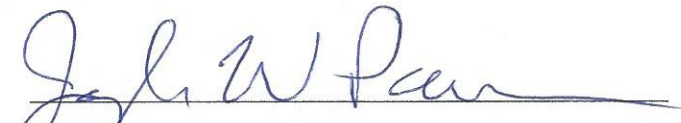

Office of the City Attorney

Exhibit A

Definitions

“Act” means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.)

“Administrative Services Agreement” means an agreement or agreements entered into after the Effective Date by the Authority with an entity that will perform tasks necessary for planning, implementing, operating and administering the CCA Program or any other energy programs adopted by the Authority.

“Agreement” means this Joint Powers Agreement.

“Annual Energy Use” has the meaning given in Section 3.7.1.

“Authority” means the Monterey Bay Community Power Authority.

“Authority Document(s)” means document(s) duly adopted by one or both Boards by resolution or motion implementing the powers, functions, and activities of the Authority, including but not limited to the Operating Rules and Regulations, the annual budget, and plans and policies.

“Board” means the Policy Board of Directors of the Authority and/or the Operations Board of Directors of the Authority unless one or the other is specified in this Agreement.

“CCA” or **“Community Choice Aggregation”** means an electric service option available to cities and counties pursuant to Public Utilities Code Section 366.2.

“CCA Program” means the Authority’s program relating to CCA that is principally described in this Agreement.

“Director” means a member of the Policy Board of Directors or Operations Board of Directors representing a Party.

“Effective Date” means the date that this Agreement is executed by at least three Initial Participants from the Counties of Monterey, Santa Cruz, and San Benito and the municipalities within those counties, as further described in Section 2.1.

“Implementation Plan” means the plan generally described in Section 4.1.2 of this Agreement that is required under Public Utilities Code Section 366.2 to be filed with the California Public Utilities Commission for the purpose of describing a proposed CCA Program.

“Initial Costs” means all costs incurred by the County of Santa Cruz and/or Authority relating to the establishment and initial operation of the Authority, such as the hiring of a Chief Executive Officer and any administrative staff, and any required accounting, administrative, technical, or legal services in support of the Authority’s initial activities or in support of the negotiation, preparation, and approval of one or more Administrative Services Agreements.

“Initial Participants” means those initial founding JPA members whose jurisdictions pass a CCA ordinance, whose Board seats will be allocated on a one jurisdiction, one seat basis (in addition to one seat for San Benito County) until such time as the number of member jurisdictions exceeds eleven, as described in Section 3.1.4.

“Operating Rules and Regulations” means the rules, regulations, policies, bylaws and procedures governing the operation of the Authority.

“Operations Board” means the board composed of City Managers and CAOs representing their respective jurisdictions as provided in section 3.1.4 who will provide oversight and support to the Chief Executive Officer on matters pertaining to the provision of electrical service to customers in the region, focusing on the routine, day-to-day operations of the Authority, as further set forth in section 3.3.

“Parties” means, collectively, the signatories to this Agreement that have satisfied the conditions in Sections 2.1 or 4.1.1 such that it is considered a member of the Authority.

“Party” means singularly, a signatory to this Agreement that has satisfied the conditions in Sections 2.1 or 4.1.1 such that it is considered a member of the Authority.

“Policy Board” means the board composed of elected officials representing their respective jurisdictions as provided in section 3.1.4 who will provide guidance/approval in the areas of strategic planning and goal setting, passage of Authority budget and customer rates, large capital expenditures outside the typical power procurement required to provide electrical service, and such other functions as set forth in section 3.3.

Exhibit B

**Monterey Bay Community Power Authority of Monterey, Santa Cruz, and San
Benito Counties, and Certain Cities in San Luis Obispo County**

List of Parties

County of Santa Cruz

City of Santa Cruz

City of Watsonville

City of Capitola

City of Scotts Valley

County of Monterey

City of Salinas

City of Monterey

City of Pacific Grove

City of Carmel

City of Seaside

City of Marina

Sand City

Soledad

Greenfield

Gonzales

County of San Benito

City of Hollister

City of San Juan Bautista

City of Morro Bay

City of San Luis Obispo

Exhibit C**Regional Allocation**

Board seats in the Monterey Bay Community Power Authority will be allocated as follows:

- i. One seat for Santa Cruz County;
- ii. One seat for Monterey County;
- iii. One seat for San Benito County;
- iv. One seat for the City of Santa Cruz;
- v. One seat for the City of Salinas;
- vi. One seat for the City of Watsonville;
- vii. One shared seat for remaining Santa Cruz cities including Capitola and Scotts Valley selected by the City Selection Committee;
- viii. One shared seat for Monterey Peninsula cities including Monterey, Pacific Grove, and Carmel selected by the City Selection Committee;
- ix. One shared seat for Monterey Coastal cities including Marina, Seaside, and Sand City selected by the City Selection Committee;
- x. One shared seat for Salinas Valley cities including Greenfield, Soledad, Gonzales selected by the City Selection Committee;
- xi. One shared seat for San Benito County cities including Hollister and San Juan Bautista selected by the City Selection Committee; and
- xii. One shared seat for the Cities of San Luis Obispo and Morro Bay selected by the agreement of these two cities.

RESOLUTION NO. 91-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
REQUESTING MEMBERSHIP IN THE MONTEREY BAY COMMUNITY
POWER JOINT POWERS AUTHORITY (MBCPA) AND AUTHORIZING THE
MAYOR OR CITY MANAGER TO EXECUTE THE JOINT POWERS
AUTHORITY AGREEMENT AS AMENDED WITH MBCPA**

WHEREAS, AB 117, adopted as California state law in 2002, permits cities, counties, or Joint Power Authorities comprised of cities and counties to aggregate residential, commercial, industrial, municipal and institutional electric loads through Community Choice Aggregation (CCA); and

WHEREAS, pursuant to Section 366.2 of the Public Utilities Code, two or more entities authorized to be a community choice aggregator may participate as a group in a community choice aggregation program through a joint powers agency established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, if each entity adopts the aforementioned ordinance; and

WHEREAS, in March 2017, MBCPA was established as a joint powers agency pursuant to a joint powers agreement; and

WHEREAS, the purpose of MBCPA is to address climate change by providing locally controlled carbon-free electricity at affordable rates; and

WHEREAS, the City Council supports the mission of MBCPA and its intent to promote the development and use of a wide range of carbon free and renewable energy sources and energy efficiency programs, including solar and wind energy production at competitive rates for customers; and

WHEREAS, in order for the City of Morro Bay (City) to become a member of MBCPA, the MBCPA Joint Powers Agreement (JPA) must be amended to permit the City join as a party; and

WHEREAS, MBCPA also has requested the City adopt a resolution requesting membership in MBCPA and authorizing its Mayor or City Manager to execute the JPA as amended, as well as an ordinance authorizing Community Choice Aggregation (CCA) within its jurisdiction; and

WHEREAS, the City wishes to be a community choice aggregator pursuant to the JPA and has introduced the Ordinance required by Public Utilities Code Section 366.2 in order to do so; and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt-out of the CCE program and continue to receive service from the incumbent utility.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Morro Bay:

SECTION 1. The City Council of requests the Board of Directors of MBCPA approve the City as a member of MBCPA.

SECTION 2. The Mayor or City Manager is hereby authorized and directed to execute the JPA on behalf of the City after the JPA is amended, which will establish the City's membership in MBCPA.

SECTION 3. This Resolution and the subsequent joining of MBCPA is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, as it is not a "project" since this action involves organizational and administrative activities of government that will not result in direct or indirect physical changes in the environment. (14 Cal. Code Regs. § 15378(b)(5)). Further, the ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant negative effect on the environment. (14 Cal. Code Regs. § 15061(b)(3)). A Notice of Exemption shall be filed as authorized by CEQA and the State CEQA guidelines.

SECTION 4. This resolution shall be effective immediately upon passage and adoption.


PASSED AND ADOPTED, by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 13th day of November 2018, by the following vote:

AYES:	Irons, Davis, Headding, Makowetski, McPherson
NOES:	None
ABSENT:	None
ABSTAIN:	None



JAMIE L. IRONS, Mayor

ATTEST:



LORI M. KUDZMA, Deputy City Clerk

ORDINANCE NO. 618

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,
CALIFORNIA, REPEALING THE EXISTING COMMUNITY CHOICE
AGGREGATION ORDINANCE (ORDINANCE NO. 616) AND AUTHORIZING
THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION
PROGRAM BY PARTICIPATING IN MONTEREY BAY COMMUNITY
POWER'S COMMUNITY CHOICE AGGREGATION PROGRAM**

WHEREAS, the City Council has previously directed staff to investigate the feasibility and formation of a Community Choice Aggregation (CCA) program under the provisions of the Public Utilities Code section 366.2 in order to provide electric service to customers within the City of Morro Bay (City) with the intent of achieving reduced greenhouse gas emissions, local renewable power development, competitive electric rates, and the implementation of energy conservation and other energy programs; and

WHEREAS, the City, in cooperation with the City of San Luis Obispo commissioned a technical study showing a CCA program serving the City and surrounding communities would provide several benefits, including:

- Providing customers a choice of power providers and power supply options;
- Increasing local control and involvement in energy rates and other energy-related matters;
- Providing stable electric rates that are competitive with those provided by the incumbent utility;
- Reducing greenhouse gas emissions arising from electricity use within the City and surrounding region;
- Increasing local renewable generation capacity;
- Increasing energy conservation and efficiency projects and programs;
- Increasing regional energy self-sufficiency;
- Improving the local economy resulting from the implementation of a CCA program and local renewable and energy efficiency projects over time; and

WHEREAS, on September 18, 2018 the cities of San Luis Obispo and Morro Bay, formed a Joint Powers Authority called Central Coast Community Energy ("CCCE.") to host a CCA program; and

WHEREAS, on October 9, 2018, the City adopted Ordinance No. 616, as required by Public Utilities Code section 366.2 authorizing the implementation of a Community Choice Aggregation program through CCCE; and

WHEREAS, on October 11, 2018 the California Public Utilities Commission amended the Power Charge Indifference Adjustment, which negatively impacted CCCE's ability to develop a program with the desired financial and environmental benefit; and

WHEREAS, Monterey Bay Community Power Authority (MBCPA) is an established CCA program capable of providing the desired financial and environmental benefits, and

WHEREAS, MBCPA will enter into agreements with electric power suppliers and other service providers and, based upon those agreements, MBCPA will be able to provide power to residents and businesses at rates that are competitive with those of the incumbent utility ("PG&E"). Once the California Public Utilities Commission certifies the amended Implementation Plan adopted by MBCPA, MBCPA will be able to provide service to customers within the City; and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt-out of a CCA program and continue to receive service from the incumbent utility. Customers who wish to receive service from the incumbent utility will be able to do so; and

WHEREAS, on November 13 and November 27, the City Council held public meetings on the manner in which the City will participate in a CCA program at which time interested persons had an opportunity to testify either in support of or opposition to the implementation of a CCA program serving the City through MBCPA; and

WHEREAS, this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, as it is not a "project" as it has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. (14 Cal. Code Regs. § 15378(a)). Further, the ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant effect on the environment. (14 Cal. Code Regs. § 15061(b)(3)). The ordinance is also categorically exempt because it is an action taken by a regulatory agency to assume the maintenance, restoration, enhancement or protection of the environment. (14 Cal. Code Regs. § 15308).

NOW, THEREFORE, the City Council of the City of Morro Bay does ordain as follows:

SECTION 1. The above recitations are true and correct and material to this Ordinance.

SECTION 2. Based upon the forgoing, the City Council hereby repeals Ordinance No. 616.

SECTION 3. Based upon the forgoing, and in order to provide businesses and residents within the City with a choice of power providers and with the benefits described above, the City Council hereby elects to implement a community choice aggregation program within the jurisdiction of the City by participating as a group in the Community Choice Aggregation Program of MBCPA, as generally described in its Joint Powers Agreement.

SECTION 2. This Ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this Ordinance and shall cause this Ordinance to be published and posted in the manner required by law.

INTRODUCED at a regular meeting the of the City Council of Morro Bay, held on the 13th day of November, 2018, by motion of Mayor Irons, seconded by Council Member Davis.

PASSED AND ADOPTED on the 27th day of November 2018, by the following vote:

AYES: Irons, Davis, Headding, Makowetski, McPherson
NOES: None
ABSENT: None


JAMIE L. IRONS, Mayor

ATTEST:


for DANA SWANSON, City Clerk

APPROVED AS TO FORM:


JOSEPH W. PANNONE, City Attorney

RESOLUTION NO. 10960 (2018 SERIES)**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN LUIS OBISPO, CALIFORNIA, REQUESTING MEMBERSHIP IN THE MONTEREY BAY COMMUNITY POWER (MBCP) JOINT POWERS AUTHORITY AND AUTHORIZING THE MAYOR OR CITY MANAGER TO EXECUTE THE JOINT POWERS AUTHORITY AGREEMENT AS AMENDED WITH MBCP.**

WHEREAS, AB 117, adopted as California state law in 2002, permits cities, counties, or Joint Power Authorities comprised of cities and counties to aggregate residential, commercial, industrial, municipal and institutional electric loads through Community Choice Aggregation (CCA); and

WHEREAS, pursuant to Section 366.2 two or more entities authorized to be a community choice aggregator may participate as a group in a community choice aggregation program through a joint powers agency established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, if each entity adopts the aforementioned ordinance; and

WHEREAS, in March 2017, Monterey Bay Community Power Authority (“MBCP”) was established as a joint powers agency pursuant to a Joint Powers Agreement; and

WHEREAS, the purpose of MBCP is to address climate change by providing locally controlled carbon-free electricity at affordable rates; and

WHEREAS, the City Council supports the mission of MBCP and its intent to promote the development and use of a wide range of carbon free and renewable energy sources and energy efficiency programs, including solar and wind energy production at competitive rates for customers; and

WHEREAS, in order for the City of San Luis Obispo to become a member of MBCP, the MBCP Joint Powers Agreement must be amended to permit the City join as a party; and

WHEREAS, MBCP also has requested that the City of San Luis Obispo adopt a resolution requesting membership in Monterey Bay Community Power and authorizing its City Manager to execute the JPA Agreement as amended, as well as an ordinance authorizing Community Choice Aggregation (CCA) within its jurisdiction; and

WHEREAS, the City of San Luis Obispo wishes to be a community choice aggregator pursuant to the MBCP Joint Powers Agreement and has introduced the Ordinance required by Public Utilities Code Section 366.2 in order to do so; and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt-out of the CCE program and continue to receive service from the incumbent utility.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of San Luis Obispo that:

SECTION 1. The City Council of San Luis Obispo hereby requests that the Board of Directors of MBCP approve the City of San Luis Obispo as a member of MBCP.

SECTION 2. The Mayor and/or City Manager are hereby authorized and directed to execute the Joint Exercise of Powers Agreement on behalf of the City of San Luis Obispo after the Joint Exercise of Powers Agreement is amended, which will establish the City's membership in MBCP.

SECTION 3. This resolution and the subsequent joining of Monterey Bay Community Power is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, as it is not a "project" since this action involves organizational and administrative activities of government that will not result in direct or indirect physical changes in the environment. (14 Cal. Code Regs. § 15378(b)(5)). Further, the ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant negative effect on the environment. (14 Cal. Code Regs. § 15061(b)(3)). A Notice of Exemption shall be filed as authorized by CEQA and the State CEQA guidelines.

SECTION 4. This resolution shall be effective immediately upon passage and adoption.

Upon motion of Council Member Pease, seconded by Vice Mayor Christianson, and on the following roll call vote:


AYES:	Council Members Gomez, Pease and Rivoire, Vice Mayor Christianson and Mayor Harmon
NOES:	None
ABSENT:	None

The foregoing resolution was adopted this 13th day of November 2018.



Mayor Heidi Harmon

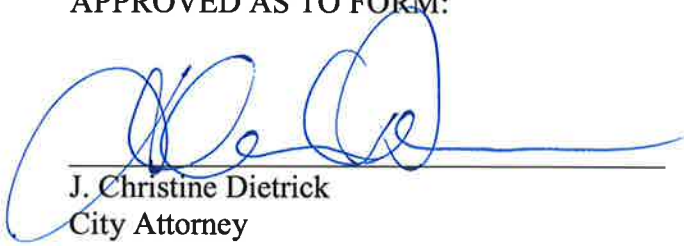
ATTEST:



Teresa Purrington
City Clerk

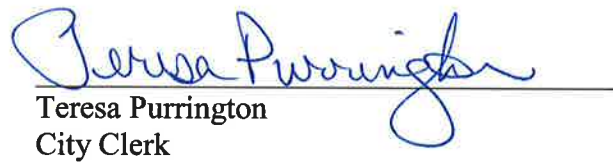
R 10960

APPROVED AS TO FORM:



J. Christine Dietrick
City Attorney

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Luis Obispo, California, this 15th day of November, 2018.



Teresa Purrington
City Clerk

R 10960

ORDINANCE NO. 1656 (2018 SERIES)**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN LUIS OBISPO, CALIFORNIA, REPEALING THE EXISTING COMMUNITY CHOICE AGGREGATION ORDINANCE AND AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM BY PARTICIPATING IN MONTEREY BAY COMMUNITY POWER'S COMMUNITY CHOICE AGGREGATION PROGRAM**

WHEREAS, on December 12, 2017, the City Council directed staff to investigate the feasibility and formation of a Community Choice Aggregation (CCA) program under the provisions of the Public Utilities Code Section 366.2 in order to provide electric service to customers within the City of San Luis Obispo with the intent of achieving reduced greenhouse gas emissions, local renewable power development, competitive electric rates, and the implementation of energy conservation and other energy programs; and

WHEREAS, the City of San Luis Obispo commissioned a technical study showing that a CCA program serving the City and surrounding communities would provide several benefits, including:

- Providing customers a choice of power providers and power supply options;
- Increasing local control and involvement in energy rates and other energy-related matters;
- Providing stable electric rates that are competitive with those provided by the incumbent utility;
- Reducing greenhouse gas emissions arising from electricity use within the City and surrounding region;
- Increasing local renewable generation capacity;
- Increasing energy conservation and efficiency projects and programs;
- Increasing regional energy self-sufficiency;
- Improving the local economy resulting from the implementation of a CCA program and local renewable and energy efficiency projects over time; and

WHEREAS, on September 18, 2018 the Cities of San Luis Obispo and Morro Bay, formed a Joint Powers Authority called Central Coast Community Energy ("CCCE.") to host a CCA program; and

WHEREAS, on October 2, 2018 the City of San Luis Obispo adopted Ordinance No. 1654 (2018 Series) as required by Public Utilities Code section 366.2 authorizing the implementation of a Community Choice Aggregation program through CCCE; and

WHEREAS, on October 11, 2018 the California Public Utilities Commission amended the Power Charge Indifference Adjustment, which negatively impacted CCCE's ability to develop a program with the desired financial and environmental benefit; and

WHEREAS, Monterey Bay Community Power (MBCP) is an established CCA program capable of providing the desired financial and environmental benefits, and

WHEREAS, MBCP will enter into Agreements with electric power suppliers and other service providers, and based upon those Agreements MBCP will be able to provide power to residents and businesses at rates that are competitive with those of the incumbent utility (“PG&E”). Once the California Public Utilities Commission certifies the amended Implementation Plan adopted by MBCP, MBCP will be able to provide service to customers within the City of San Luis Obispo; and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt-out of a CCA program and continue to receive service from the incumbent utility. Customers who wish to receive service from the incumbent utility will be able to do so; and

WHEREAS, on November 13 and November 27, the City Council held public hearings on the manner in which San Luis Obispo will participate in a CCA program at which time interested persons had an opportunity to testify either in support of or opposition to the implementation of a CCA program serving the City of San Luis Obispo through MBCP; and

WHEREAS, this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, as it is not a “project” as it has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. (14 Cal. Code Regs. § 15378(a)). Further, the ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant effect on the environment. (14 Cal. Code Regs. § 15061(b)(3)). The ordinance is also categorically exempt because it is an action taken by a regulatory agency to assume the maintenance, restoration, enhancement or protection of the environment. (14 Cal. Code Regs. § 15308).

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of San Luis Obispo as follows:

SECTION 1. The above recitations are true and correct and material to this Ordinance.

SECTION 2. Repeal of Ordinance No. 1654 (2018 Series). Based upon the forgoing, the City Council hereby repeals Ordinance No. 1654 (2018 Series)

SECTION 3. Authorization to Implement a Community Choice Aggregation Program. Based upon the forgoing, and in order to provide businesses and residents within the City of San Luis Obispo with a choice of power providers and with the benefits described above, the City Council hereby elects to implement a community choice aggregation program within the jurisdiction of the City by participating as a group in the Community Choice Aggregation Program of Monterey Bay Community Power, as generally described in its Joint Powers Agreement.

SECTION 4. This Ordinance shall be in full force and effective 30 days after its adoption and shall be published and posted as required by law.

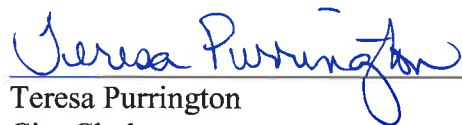
INTRODUCED on the 13th day of November, 2018, **AND FINALLY ADOPTED** by the Council of the City of San Luis Obispo on the 27th day of November, 2018, on the following vote:

AYES: Council Members Gomez, Pease and Rivoire,
Vice Mayor Christianson and Mayor Harmon
NOES: None
ABSENT: None



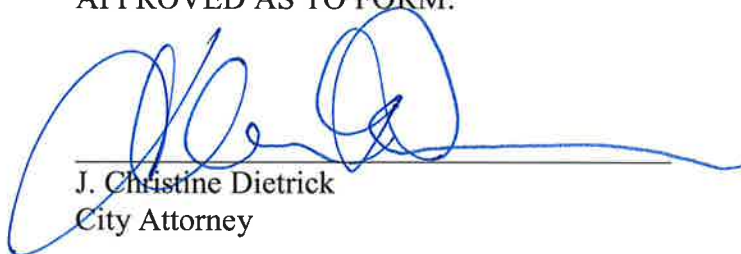
Mayor Heidi Harmon

ATTEST:



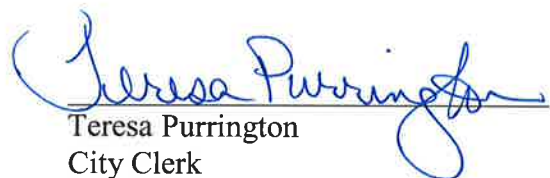
Teresa Purrington
City Clerk

APPROVED AS TO FORM:



J. Christine Dietrick
City Attorney

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Luis Obispo, California, this 28th day of November, 2018.



Teresa Purrington
City Clerk

ORDINANCE NO. 618

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,
CALIFORNIA, REPEALING THE EXISTING COMMUNITY CHOICE
AGGREGATION ORDINANCE (ORDINANCE NO. 616) AND AUTHORIZING
THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION
PROGRAM BY PARTICIPATING IN MONTEREY BAY COMMUNITY
POWER'S COMMUNITY CHOICE AGGREGATION PROGRAM**

WHEREAS, the City Council has previously directed staff to investigate the feasibility and formation of a Community Choice Aggregation (CCA) program under the provisions of the Public Utilities Code section 366.2 in order to provide electric service to customers within the City of Morro Bay (City) with the intent of achieving reduced greenhouse gas emissions, local renewable power development, competitive electric rates, and the implementation of energy conservation and other energy programs; and

WHEREAS, the City, in cooperation with the City of San Luis Obispo commissioned a technical study showing a CCA program serving the City and surrounding communities would provide several benefits, including:

- Providing customers a choice of power providers and power supply options;
- Increasing local control and involvement in energy rates and other energy-related matters;
- Providing stable electric rates that are competitive with those provided by the incumbent utility;
- Reducing greenhouse gas emissions arising from electricity use within the City and surrounding region;
- Increasing local renewable generation capacity;
- Increasing energy conservation and efficiency projects and programs;
- Increasing regional energy self-sufficiency;
- Improving the local economy resulting from the implementation of a CCA program and local renewable and energy efficiency projects over time; and

WHEREAS, on September 18, 2018 the cities of San Luis Obispo and Morro Bay, formed a Joint Powers Authority called Central Coast Community Energy ("CCCE.") to host a CCA program; and

WHEREAS, on October 9, 2018, the City adopted Ordinance No. 616, as required by Public Utilities Code section 366.2 authorizing the implementation of a Community Choice Aggregation program through CCCE; and

WHEREAS, on October 11, 2018 the California Public Utilities Commission amended the Power Charge Indifference Adjustment, which negatively impacted CCCE's ability to develop a program with the desired financial and environmental benefit; and

WHEREAS, Monterey Bay Community Power Authority (MBCPA) is an established CCA program capable of providing the desired financial and environmental benefits, and

WHEREAS, MBCPA will enter into agreements with electric power suppliers and other service providers and, based upon those agreements, MBCPA will be able to provide power to residents and businesses at rates that are competitive with those of the incumbent utility ("PG&E"). Once the California Public Utilities Commission certifies the amended Implementation Plan adopted by MBCPA, MBCPA will be able to provide service to customers within the City; and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt-out of a CCA program and continue to receive service from the incumbent utility. Customers who wish to receive service from the incumbent utility will be able to do so; and

WHEREAS, on November 13 and November 27, the City Council held public meetings on the manner in which the City will participate in a CCA program at which time interested persons had an opportunity to testify either in support of or opposition to the implementation of a CCA program serving the City through MBCPA; and

WHEREAS, this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, as it is not a "project" as it has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. (14 Cal. Code Regs. § 15378(a)). Further, the ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant effect on the environment. (14 Cal. Code Regs. § 15061(b)(3)). The ordinance is also categorically exempt because it is an action taken by a regulatory agency to assume the maintenance, restoration, enhancement or protection of the environment. (14 Cal. Code Regs. § 15308).

NOW, THEREFORE, the City Council of the City of Morro Bay does ordain as follows:

SECTION 1. The above recitations are true and correct and material to this Ordinance.

SECTION 2. Based upon the forgoing, the City Council hereby repeals Ordinance No. 616.

SECTION 3. Based upon the forgoing, and in order to provide businesses and residents within the City with a choice of power providers and with the benefits described above, the City Council hereby elects to implement a community choice aggregation program within the jurisdiction of the City by participating as a group in the Community Choice Aggregation Program of MBCPA, as generally described in its Joint Powers Agreement.

SECTION 2. This Ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this Ordinance and shall cause this Ordinance to be published and posted in the manner required by law.

INTRODUCED at a regular meeting the of the City Council of Morro Bay, held on the 13th day of November, 2018, by motion of Mayor Irons, seconded by Council Member Davis.

PASSED AND ADOPTED on the 27th day of November 2018, by the following vote:

AYES: Irons, Davis, Headding, Makowetski, McPherson
NOES: None
ABSENT: None


JAMIE L. IRONS, Mayor

ATTEST:


for DANA SWANSON, City Clerk

APPROVED AS TO FORM:


JOSEPH W. PANNONE, City Attorney

ORDINANCE NO. 1656 (2018 SERIES)**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN LUIS OBISPO, CALIFORNIA, REPEALING THE EXISTING COMMUNITY CHOICE AGGREGATION ORDINANCE AND AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM BY PARTICIPATING IN MONTEREY BAY COMMUNITY POWER'S COMMUNITY CHOICE AGGREGATION PROGRAM**

WHEREAS, on December 12, 2017, the City Council directed staff to investigate the feasibility and formation of a Community Choice Aggregation (CCA) program under the provisions of the Public Utilities Code Section 366.2 in order to provide electric service to customers within the City of San Luis Obispo with the intent of achieving reduced greenhouse gas emissions, local renewable power development, competitive electric rates, and the implementation of energy conservation and other energy programs; and

WHEREAS, the City of San Luis Obispo commissioned a technical study showing that a CCA program serving the City and surrounding communities would provide several benefits, including:

- Providing customers a choice of power providers and power supply options;
- Increasing local control and involvement in energy rates and other energy-related matters;
- Providing stable electric rates that are competitive with those provided by the incumbent utility;
- Reducing greenhouse gas emissions arising from electricity use within the City and surrounding region;
- Increasing local renewable generation capacity;
- Increasing energy conservation and efficiency projects and programs;
- Increasing regional energy self-sufficiency;
- Improving the local economy resulting from the implementation of a CCA program and local renewable and energy efficiency projects over time; and

WHEREAS, on September 18, 2018 the Cities of San Luis Obispo and Morro Bay, formed a Joint Powers Authority called Central Coast Community Energy ("CCCE.") to host a CCA program; and

WHEREAS, on October 2, 2018 the City of San Luis Obispo adopted Ordinance No. 1654 (2018 Series) as required by Public Utilities Code section 366.2 authorizing the implementation of a Community Choice Aggregation program through CCCE; and

WHEREAS, on October 11, 2018 the California Public Utilities Commission amended the Power Charge Indifference Adjustment, which negatively impacted CCCE's ability to develop a program with the desired financial and environmental benefit; and

WHEREAS, Monterey Bay Community Power (MBCP) is an established CCA program capable of providing the desired financial and environmental benefits, and

WHEREAS, MBCP will enter into Agreements with electric power suppliers and other service providers, and based upon those Agreements MBCP will be able to provide power to residents and businesses at rates that are competitive with those of the incumbent utility (“PG&E”). Once the California Public Utilities Commission certifies the amended Implementation Plan adopted by MBCP, MBCP will be able to provide service to customers within the City of San Luis Obispo; and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt-out of a CCA program and continue to receive service from the incumbent utility. Customers who wish to receive service from the incumbent utility will be able to do so; and

WHEREAS, on November 13 and November 27, the City Council held public hearings on the manner in which San Luis Obispo will participate in a CCA program at which time interested persons had an opportunity to testify either in support of or opposition to the implementation of a CCA program serving the City of San Luis Obispo through MBCP; and

WHEREAS, this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, as it is not a “project” as it has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. (14 Cal. Code Regs. § 15378(a)). Further, the ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant effect on the environment. (14 Cal. Code Regs. § 15061(b)(3)). The ordinance is also categorically exempt because it is an action taken by a regulatory agency to assume the maintenance, restoration, enhancement or protection of the environment. (14 Cal. Code Regs. § 15308).

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of San Luis Obispo as follows:

SECTION 1. The above recitations are true and correct and material to this Ordinance.


SECTION 2. Repeal of Ordinance No. 1654 (2018 Series). Based upon the forgoing, the City Council hereby repeals Ordinance No. 1654 (2018 Series)

SECTION 3. Authorization to Implement a Community Choice Aggregation Program. Based upon the forgoing, and in order to provide businesses and residents within the City of San Luis Obispo with a choice of power providers and with the benefits described above, the City Council hereby elects to implement a community choice aggregation program within the jurisdiction of the City by participating as a group in the Community Choice Aggregation Program of Monterey Bay Community Power, as generally described in its Joint Powers Agreement.

SECTION 4. This Ordinance shall be in full force and effective 30 days after its adoption and shall be published and posted as required by law.

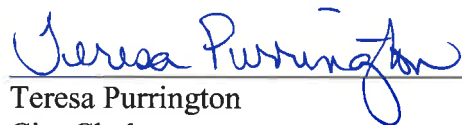
INTRODUCED on the 13th day of November, 2018, **AND FINALLY ADOPTED** by the Council of the City of San Luis Obispo on the 27th day of November, 2018, on the following vote:

AYES: Council Members Gomez, Pease and Rivoire,
Vice Mayor Christianson and Mayor Harmon
NOES: None
ABSENT: None



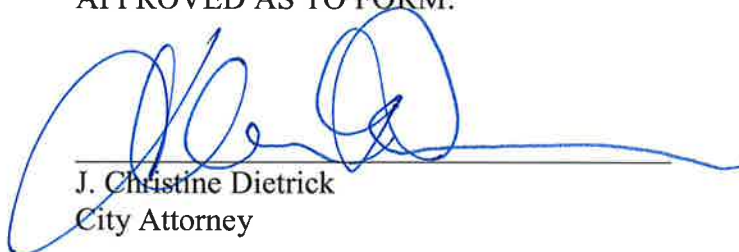
Mayor Heidi Harmon

ATTEST:



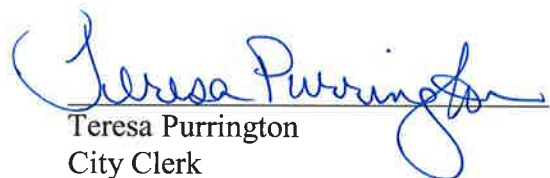
Teresa Purrington
City Clerk

APPROVED AS TO FORM:



J. Christine Dietrick
City Attorney

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Luis Obispo, California, this 28th day of November, 2018.



Teresa Purrington
City Clerk

ATTACHMENT 4

CEQA Notice of Exemption

NOTICE OF EXEMPTION (NOE)

To: ☐ Office of Planning and Research
P.O. Box 3044, 1400 Tenth St. Rm. 212
Sacramento, CA 95812-3044

From: City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

☐ Clerk of the Board of Supervisors
County of Santa Barbara
105 E. Anapamu Street, Room 407
Santa Barbara, CA 93101



Subject: Filing of Notice of Exemption

Project Title: Implementation of a Community Choice Energy Program By and Through Participation in Monterey Bay Community Power Authority's Community Choice Aggregation Program

Project Applicant: City of Goleta

Project Location (Address and APN): Citywide

Description of Nature, Purpose and Beneficiaries of Project:

On December 5, 2017, the City of Goleta City Council adopted a 100% Renewable Electricity Goal by 2030. On July 16, 2019, the City Council adopted a Strategic Energy Plan (SEP), that serves as a roadmap to identify how the City could reach the Goal. Pursuant to the SEP, CCE contributes significantly to the Goal, at approximately 64% of the combined strategies contribution (or approximately 30% overall), as a CCE allows the community to determine what type of energy mix serves its needs, in addition to facilitating other strategies based on CCE operational benefits.

The City Council has previously directed the investigation of the feasibility and formation of a Community Choice Aggregation (CCA) program under the provisions of the Public Utilities Code section 366.2 in order to provide electric service to customers within the City of Goleta with the intent of achieving greater local control and involvement related to the provision of electric service in the City, and offering energy with lower greenhouse gas emissions at a comparable rate to the Investor-Owned Utility in the City. Monterey Bay Community Power Authority (MBCPA) is an established CCA program capable of providing the desired financial and environmental benefits.

Name of Public Agency Approving the Project: City of Goleta

Name of Person or Agency Carrying Out the Project: City of Goleta

Exempt Status: *(check one)*

- ☐ Ministerial (Sec. 15268)
- ☐ Declared Emergency (Sec. 15269 (a))
- ☐ Emergency Project (Sec. 15269 (b) (c))
- ☒ Categorical Exemption: (Sec. 15308)
- ☒ Other: (Sec 15061(b)(3); 15378(a))

NOTICE OF EXEMPTION (NOE)

Reason(s) why the project is exempt:

Establishment of a CCE in accordance with the State Guidelines for the Implementation of the California Environmental Quality Act ("CEQA") and found the establishment of a CCE is exempt from the requirements of CEQA, as it is not a "project" as it has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment because energy will be transported through existing infrastructure (14 Cal. Code Regs. § 15378(a)). Further, establishing a CCE is exempt from CEQA as there is no possibility that it would have a significant effect on the environment (14 Cal. Code Regs. § 15061(b)(3)). Further, the establishment of a CCE is also categorically exempt because it is an action taken by a regulatory agency to assume the maintenance, restoration, enhancement or protection of the environment (14 Cal. Code Regs. § 15308).

City of Goleta Contact Person and Telephone Number:

Peter Imhof

Director, Planning & Environmental Review

Date

NOTICE OF EXEMPTION (NOE)

If filed by the applicant:

1. Attach certified document of exemption finding
2. Has a Notice of Exemption been filed by the public agency approving the project?
☐Yes ☐No

Date received for filing at OPR: _____

Note: Authority cited: Section 21083 and 211110, Public Resources Code
Reference: Sections 21108, 21152.1, Public Resources Code

ATTACHMENT 5

Resolution No. 18-41, entitled “A Resolution of the City Council of the City of Goleta, California, Affirming the City’s Intent to Participate in Governance and Financing Discussions for a Proposed Community Choice Energy Joint Powers Authority”

RESOLUTION NO. 18-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA, AFFIRMING THE CITY'S INTENT TO PARTICIPATE IN GOVERNANCE AND FINANCING DISCUSSIONS FOR A PROPOSED COMMUNITY CHOICE ENERGY JOINT POWERS AUTHORITY

WHEREAS, the City Council of the City of Goleta has considered options to provide a community choice energy (CCE), also known as community choice aggregation, program to customers within the City with the intent of achieving greater local control and involvement related to the provision of electric service in the City of Goleta; and

WHEREAS, in 2002, the State Legislature adopted Assembly Bill 117, establishing CCE as an option for local governments; and

WHEREAS, the City Council adopted a Climate Action Plan in 2014, establishing a goal to reduce greenhouse gas emissions to 11 percent below 2007 levels by 2020; and

WHEREAS, consistent with the City's legislative platform, in 2017 Mayor Perotte joined the Climate Mayors organization (aka the Mayors National Climate Action Agenda), pledging to work together with other U.S. mayors to strengthen local efforts for reducing greenhouse gas emissions; and

WHEREAS, on December 5, 2017, the City Council adopted a 100% renewable energy goal for the electricity sector for both municipal facilities and the community at large by 2030; and

WHEREAS, a Community Choice Aggregation Technical Study has been completed for the County of Santa Barbara. The study concluded that a CCE program serving all or part of Santa Barbara County can offer cleaner electricity at a comparable rate to Pacific Gas and Electric and Southern California Edison, and that it is financially beneficial to include multiple participating jurisdictions.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLETA, AS FOLLOWS:

SECTION 1.

The City of Goleta affirms its intent to participate in governance and financing discussions for a joint powers authority (JPA) to create and administer a CCE program serving part or all of Santa Barbara County under the following general terms:

- I. The JPA is anticipated to be formed in early 2019, and the JPA is expected to begin providing electric service to customers in 2021 or earlier if allowed under California Public Utilities Commission rules.
- II. The JPA is expected to be composed of jurisdictions within Santa Barbara County who choose to participate by adopting an ordinance as required by Public Utilities Code Section 366.2(c)(12). The target deadline for passage of said resolution(s) and ordinance(s) is December 31, 2018.
- III. Joint powers authority and CCE program start-up costs are expected to be shared equitably among participating jurisdictions.
- IV. Adoption of this resolution authorizes staff of the City of Goleta to participate in discussions in anticipation of JPA formation and CCE program launch. It does not, however, bind the City of Goleta to membership in the JPA, allocation of general funds, or participation in a future CCE program. If the City of Goleta chooses to move forward, anticipated next steps for the City Council are: (1) pass a resolution for JPA membership, (2) authorize a pro-rata share of credit support, and (3) pass a CCE ordinance.

SECTION 2.

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

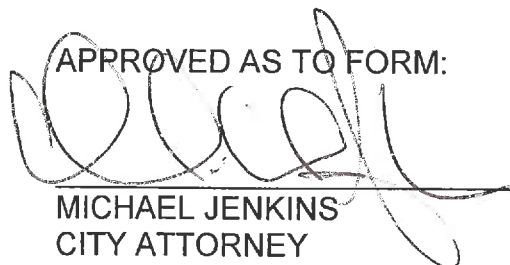
PASSED, APPROVED AND ADOPTED this 17th day of July 2018.


PAULA PEROTTE, MAYOR

ATTEST:


DEBORAH S. LOPEZ
CITY CLERK

APPROVED AS TO FORM:


MICHAEL JENKINS
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA)
CITY OF GOLETA) ss.

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, DO
HEREBY CERTIFY that the foregoing Resolution No. 18-41 was duly adopted by
the City Council of the City of Goleta at a regular meeting held on the 17th day of
July, 2018 by the following vote of the Council:

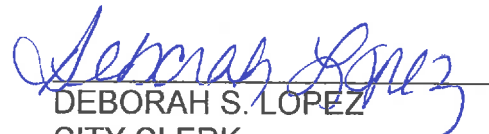
AYES: MAYOR PEROTTE, MAYOR PRO TEMPORE KASDIN,
 COUNCILMEMBERS ACEVES, AND RICHARDS

NOES: NONE

ABSENT: COUNCILMEMBER BENNETT

ABSTENTIONS: NONE

(SEAL)


DEBORAH S. LOPEZ
CITY CLERK

