



**TO:** Mayor and Councilmembers

**FROM:** Peter Imhof, Planning and Environmental Review Director

**CONTACT:** Cindy Moore, Sustainability Coordinator

**SUBJECT:** Memorandum of Understanding with the City of Carpinteria for Sharing Monterey Bay Community Power Policy and Operations Board Seats

**RECOMMENDATION:**

- A. Approve the draft Memorandum Of Understanding Between City of Goleta and City of Carpinteria Regarding Participation in the Monterey Bay Community Power (MBCP) Community Choice Energy Agency; and
- B. Authorize the City Manager to execute the MOU in substantial conformance with the draft Memorandum of Understanding, as approved by the City Attorney.
- C. Consider the appointment of one member of the City Council as a Director to the Monterey Bay Community Power Authority's Policy Board of Directors; and
- D. Consider the appointment of the City Manager, or a City administrative manager as determined by the City Manager, as the alternate to the Monterey Bay Community Power Authority's Operations Board of Directors.

**BACKGROUND:**

On August 20, 2019, the City Council adopted Resolution No. 19-48, requesting membership in the Monterey Bay Community Power's Community Choice Aggregation Program (MBCPA), an existing joint powers authority (JPA). At the following meeting on September 4, 2019, the City Council adopted Ordinance No. 19-13, authorizing the implementation of a community choice energy program within the City's jurisdiction through participation in MBCPA.

On September 4, 2019, the MBCPA Policy Board held a regular meeting and vote to accept the City as a new member. Subsequently, at its December 4, 2019 meeting, the Policy Board will vote to amend its existing joint powers agreement to add the City of Goleta and officially seat new Board Directors. Only after that time will the appointed directors serve on the Policy and Operations Board.

On August 20, 2019, the City Council also authorized several related actions for participation in MBCPA. One of those actions directed staff to negotiate a Memorandum of Understanding (MOU) with staff of the City of Carpinteria and Guadalupe, as appropriate, to provide a collaborative and fair strategy for representation on the MBCP Policy and Operations Boards and to return to Council for final approval. This action was required because MBCP staff notified the City that the Cities of Goleta, Carpinteria and Guadalupe would share a seat on MBCP's Policy Board and Operations Board pending action taken by the Cities of Solvang and/or Buellton. If either Solvang or Buellton join MBCP, Guadalupe would then share a seat with these cities and Goleta and Carpinteria would share a seat.

In August and September 2019, the City of Carpinteria adopted the ordinance and resolution committing the City to join Monterey Bay Community Power. On September 9, 2019, the City of Solvang took initial action to join MBCP and conducted the second reading of the ordinance to join MBCP on September 23<sup>rd</sup>. Therefore, the MOU has been prepared for the Cities of Goleta and Carpinteria only.

## **DISCUSSION:**

### **Governance and Representation**

MBCP has a Policy Board and an Operations Board. The Policy Board provides guidance/approval in the areas of strategic planning and goal setting, passage of budget and customer rates, and large capital expenditures outside of the typical power procurement required to provide electrical service. The Policy Board meets quarterly and is comprised of elected officials. The Operations Board provides oversight and support to the chief executive officer of MBCP on matters pertaining to the provision of electrical service to customers in the region, focusing on the routine, day-to-day operations of MBCP. The Operations Board meets eight times per year and is comprised of city managers and county administrative officers. MBCP also has a Community Advisory Council that serves in an advisory role to the Policy and Operations Boards. Members of the Community Advisory Council are community members appointed at large by the Policy Board following an application and selection process managed by MBCP staff.

Under the JPA, jurisdictions with populations of 50,000 or more people are entitled to one seat on both the Policy and Operations Boards. Jurisdictions with fewer than 50,000 people are required to partner and share one seat on each of the two Boards between them. In cases of shared seats, the partnering jurisdictions must agree how representation should be shared.

For seats shared by more than one jurisdiction, MBCP's current board structure allows for rotating jurisdictions on both the Policy Board and Operations Board, so that there can be a representative from one jurisdiction on the Policy Board and a representative from another jurisdiction on the Operations Board at any given time. In this manner, representation of jurisdictions sharing a seat is balanced fairly between them. Based on Section 3.1.4 of the JPA and Section 5 of the MBCP Authority Operating Rules and

Regulations, representatives in shared Board seats shall serve two-year terms of office but may be reappointed by their appointing Party. Such an arrangement is proposed in the attached MOU, with a Goleta representative serving the first two-year term on the Policy Board and a Carpinteria representative serving the first two-year term on the Operations Board. The designated alternate for each seat would be a representative of the city not currently holding the seat in question.

Community collaboration and regionalism were key values guiding the effort to create a local community choice energy program. This MOU seeks to encourage further regional collaboration. The draft MOU included in Attachment 1 outlines the following provisions:

1. Policy Board. The Policy Board representative shall serve for a term of two years and Board seat appointment responsibility shall alternate between the parties. The City of Goleta shall appoint the initial representative and will serve for two years from December 2019 through November 2021. Appointment responsibility shall rotate every two years between the parties.
  - a. The party serving as Policy Board representative shall distribute via email to the parties' City Councils and City Managers the agenda, meeting minutes and any additional supplemental documents and information necessary to keep each party informed of policy, business or other related matters of the board meetings, as soon as materials are available and is practicable.
  - b. The Policy Board Director alternate shall be appointed by the City party currently not holding the Policy Board seat.
  - c. The appointed Policy Board representative and the Policy Board Director alternate shall meet on an as needed basis to discuss the business of the Policy Board and voting strategies.
2. Operations Board. The Operations Board representative shall serve for a term of two years. The City of Carpinteria shall appoint the initial representative that will serve for two years from December 2019 through November 2021. Appointment responsibility shall rotate every two years between the parties. The Operations Board representative may be (a) the City Manager of the party serving as the Operations Board representative; or (b) a Deputy or Assistant City Manager or director level staff member as determined by the City Manager of the party serving as the Operations Board representative.
  - a. The party currently serving as Operations Board representative shall distribute via email to both parties' City Councils and City Managers the agenda, meeting minutes and any additional supplemental documents and information necessary to keep each party informed of policy, business or other related matters of the board meetings, as soon as materials are available and is practicable.
  - b. The Operations Board Director alternate shall be appointed by the party not holding the Operations Board seat, and may be (a) the City Manager of the party not serving as the Operations Board representative; or (b) a Deputy or Assistant City Manager or director level staff member, as determined

by the City Manager of the party not serving as the Operations Board representative.

- c. The appointed Operations Board representative and the Operations Board Director alternate shall meet on an as needed basis to discuss the business of the Operations Board and voting strategies.

The MOU requires that in all cases, the elected officials, staff, or public representing the joint interests of the two cities shall consider the program purposes outlined in the Joint Exercise of Powers Agreement (JPA) including reducing greenhouse gas emissions; providing electric power to customers at a competitive cost; carrying out programs to facilitate electrifying the transportation, public infrastructure, and the building sectors to reduce reliance on fossil fuels; stimulating and sustaining the local economy by developing local jobs in renewable energy and energy efficiency; and promoting long-term rate stability, energy security and reliability for residents through local control of electric generation resources. Both cities also emphasized the importance of specifically recognizing community resiliency, local generation and distributed resources in addition to the purposes identified in the JPA.

The MOU also includes a provision that, if a representative seat becomes vacant for any reason, such as failure to comply with the Monterey Bay Community Power JPA and/or the MBCP's Operating Rules and Regulations, the alternate shall immediately take over responsibility as the board representative until such time that the original party serving in that seat appoints a new board representative.

Pursuant to the MOU, the City of Goleta will serve as the Policy Board representative (with Carpinteria as alternate) for December 2019 through November 2021, rotating to the City of Carpinteria for the following two years. Correspondingly, the City of Carpinteria will serve as the Operations Board representative (with Goleta as alternate) for December 2019 through November 2021, rotating to the City of Goleta for the following two years.

### **City Council Energy & Green Issues Standing Committee**

A draft MOU was modelled after the MOU entered into by the Cities of San Luis Obispo and Morro Bay for the same purpose. The City Council's Energy / Green Issues Standing Committee received an update and discussed the draft MOU on September 11, 2019. The Committee recommended some revisions to the MOU and those recommendations were discussed with City of Carpinteria City Manager and staff at a meeting on September 12, 2019. The MOU included in Attachment 1 reflects the MOU negotiated with the City of Carpinteria.

### **FISCAL IMPACTS:**

Approval of the MOU will not result in any fiscal impact to the City. Additionally, there is no cost to join MBCP. However, at the August 20, 2019 meeting, the City Council approved 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, which are required to be

filed with the CPUC. MBCP has since determined the City's actual cost share to be \$6,000.

**ALTERNATIVES:**

The City Council could request amendments to the MOU. Should Council request amendments, they would be provided to the City of Carpinteria for consideration and, if necessary, brought back to Council at the November 5, 2019 meeting.

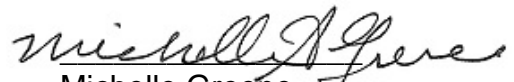
**Reviewed By:**

**Legal Review By:**

**Approved By:**

  
Kristine Schmidt  
Assistant City Manager

  
Michael Jenkins  
City Attorney

  
Michelle Greene  
City Manager

**ATTACHMENT:**

1. Memorandum Of Understanding Between City of Goleta and City of Carpinteria Regarding Participation in the Monterey Bay Community Power (MBCP) Community Choice Energy Agency
2. Presentation - Memorandum Of Understanding Between City of Goleta and City of Carpinteria Regarding Participation in the Monterey Bay Community Power (MBCP) Community Choice Energy Agency



## **ATTACHMENT 1**

### **Memorandum Of Understanding Between City of Goleta and City of Carpinteria Regarding Participation in the Monterey Bay Community Power (MBCP) Community Choice Energy Agency**





**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
CITY OF GOLETA AND  
CITY OF CARPINTERIA  
REGARDING PARTICIPATION IN THE  
MONTEREY BAY COMMUNITY POWER (MBCP)  
COMMUNITY CHOICE ENERGY AGENCY**

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and between the City of Goleta, hereinafter referred to as GOLETA, and the City of Carpinteria, hereinafter referred to as CARPINTERIA (GOLETA AND CARPINTERIA hereinafter individually referred to as “party” and hereinafter collectively referred to as the “parties”).

**A. INTRODUCTION**

Since 2015, GOLETA and CARPINTERIA have explored community choice energy programs for the purpose of providing local control in the electricity market, reducing greenhouse gas emissions, proving potential rate savings, supporting energy efficiency, promoting regional collaboration, and contributing to economic development. The two parties pursued participating in a community choice energy program by joining Monterey Bay Community Power (MBCP) and, on December 4, 2019, GOLETA and CARPINTERIA will become official members of MBCP.

As outlined in the MBCP Joint Powers Agreement (JPA), the MBCP is governed by two decision making bodies and one advisory body:

- The **Policy Board** is comprised of elected officials and meets quarterly to decide high level policy decisions.
- The **Operations Board** is comprised of City Managers or administrative managers, consistent with the terms of the JPA, and meets approximately eight times per year to decide finer detailed operational decisions.
- The **Community Advisory Council** is comprised of community members and serves in an advisory role to the Policy Board and Operations Board.

MBCP is a large community choice energy agency and, to ensure manageable meetings, smaller jurisdictions share Board seats on the Policy Board and Operations Board. Jurisdictions with 50,000 or more residents have individual Board seats, while smaller jurisdictions share Board seats based on geographic proximity. Since GOLETA and CARPINTERIA individually have populations smaller than 50,000, the two cities will share a Policy Board seat and Operations Board seat.

Additionally, MBCP staff has communicated that once all Board seats are established in December 2019, the Policy Board will direct MBCP staff to recruit new Community Advisory Council members to account for the new Board structures. The Community Advisory Council will add member seats equal to the number of new Board seats within Santa Barbara County. A Policy Board representative from each County Board of Supervisors will participate in the selection committee recommending new members for the Community Advisory Council to the MBCP Policy Board for approval.

On August 20, and August 26, both the City Councils of GOLETA and CARPINTERIA, respectively, voted unanimously to direct staff to negotiate a MOU between GOLETA and CARPINTERIA to provide a collaborative and fair strategy for MBCP representation and to return

to their respective City Councils for final approval.

## **B. PURPOSE**

The purpose of this MOU is to identify a clear framework between GOLETA and CARPINTERIA to share governance seats on Monterey Bay Community Power's Policy Board and Operations Board.

It should also be noted that community collaboration and regionalism were key values guiding the effort to create a local community choice energy program. This MOU seeks to encourage further regional collaboration.

## **C. SHARED SEATS**

1. **Policy Board.** The Policy Board representative shall serve for a term of two years and Board seat appointment responsibility shall alternate between the parties. GOLETA shall appoint the initial representative that will serve for two years from December 2019 through November 2021. Appointment responsibility shall rotate every two years between the parties.
  - a. The party serving as Policy Board representative shall distribute via email to the parties' City Councils and City Managers the agenda, meeting minutes and any supplemental documents and information necessary to keep each party informed of policy, business or other related matters of the board meetings, as soon as materials are available and is practicable.
  - b. The Policy Board Director alternate, as described in the JPA, shall be appointed, consistent with the terms of the JPA, by the party not holding the Policy Board seat.
  - c. The appointed Policy Board representative and the Policy Board Director alternate shall meet on an as needed basis to discuss the business of the Policy Board and voting strategies.
2. **Operations Board.** The Operations Board representative shall serve for a term of two years. CARPINTERIA shall appoint the initial representative that will serve for two years from December 2019 through November 2021. Appointment responsibility shall rotate every two years between the parties. The Operations Board representative may be (a) the City Manager of the party serving as the Operations Board representative; or (b) a Deputy or Assistant City Manager or director level staff member as determined by the City Manager of the party serving as the Operations Board representative.
  - a. The party currently serving as Operations Board representative shall distribute via email to both parties' City Councils and City Managers the agenda, meeting minutes and any additional supplemental documents and information necessary to keep each party informed of policy, business or other related matters of the board meetings, as soon as materials are available and is practicable.
  - b. The Operations Board Director alternate shall be appointed by the party not holding the Operations Board seat, and may be (a) the City Manager of the party not serving as the Operations Board representative; or (b) a Deputy or Assistant City Manager or director level staff member, as determined by the City Manager of the party not serving as the Operations Board representative.
  - c. .
  - d. The appointed Operations Board representative and the Operations Board Director alternate shall meet on an as needed basis to discuss the business of the Operations Board and voting strategies.

3. In all instances, the Policy Board and Operations Board representatives and alternates representing the joint interests of GOLETA and CARPINTERIA shall consider the program purposes outlined in the JPA, in no priority order. Additionally, the representatives shall consider the following mutually identified program purposes:
  - a. Community Resiliency
  - b. Local Generation
  - c. Distributed Resources
4. If a representative seat, described herein, becomes vacant for any reason, such as failure to comply with the Monterey Bay Community Power JPA and/or the MBCP's Operating Rules and Regulations, the alternate shall immediately take over responsibility as the board representative until such time that the original party serving in that seat appoints a new board representative.

#### D. PROCESS

GOLETA and CARPINTERIA City Councils will make their respective appointments to serve as Policy Board and Operations Board representatives, in accordance with the terms of this MOU, by November 15, 2019. Terms shall run for two years starting on December 1 and concluding on November 30 of odd- numbered years.

Future term appointees shall be made by alternating City Councils in November of the year that the term concludes (e.g., CARPINTERIA to Policy and GOLETA to Operations in 2021, GOLETA to Policy and CARPINTERIA to Operations in 2023, CARPINTERIA to Policy and GOLETA to Operations in 2025, etc.).

#### E. PRINCIPAL CONTACTS

The principal contacts for this MOU are:

**GOLETA:**

City Manager  
Sustainability Coordinator

**CARPINTERIA**

City Manager  
Environmental Coordinator

#### F. COST OBLIGATION

Each party to this MOU shall be financially responsible for any costs incurred as a result of participation on the Policy Board and Operations Board during the party's term.

#### G. COMMENCEMENT/EXPIRATION DATE

This MOU is executed as of the date of the last signature and is effective until GOLETA or CARPINTERIA withdraw from the MBCP or due to a change in board seat structure, authorized by the MBCP, which would no longer require a party to share a board seat with the other party. The

party wishing to terminate this MOU shall provide the non-terminating party with thirty (30) days advanced written notice before terminating the MOU.

#### H. LIABILITIES

It is understood that neither party to this MOU is the agent of the other and neither is liable for the wrongful acts, omissions, negligence or willful misconduct of the other. Each party shall be responsible for its wrongful acts, omissions, negligence or willful misconduct, and those of its officials, officers, employees, and agents, howsoever caused, to the extent allowed by law, and shall be responsible for their own Commercial General Liability, Auto, Worker's Compensation and Errors and Omissions insurance and adherence to their respective party policies. Each party to this MOU agrees to indemnify, defend and hold the other party, and its officials, officers, employees, and agents, against any liability, claim, personal injury, including death, or property damage caused by that party's wrongful acts, omissions, negligence or willful misconduct in the performance of its duties under this MOU.

#### I. NO ASSIGNMENT

The rights and obligations of the parties to this MOU may not be assigned or delegated.

#### J. AMENDMENT

This Memorandum of Understanding may not be amended or modified in any manner whatsoever except by written agreement between the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the last written date below.

FOR GOLETA:

Date: \_\_\_\_\_  
Michelle Greene, City Manager

FOR CARPINTERIA

Date: \_\_\_\_\_  
Dave Durflinger, City Manager

## **ATTACHMENT 2:**

Presentation - Memorandum Of Understanding Between City of Goleta and City of Carpinteria Regarding Participation in the Monterey Bay Community Power (MBCP) Community Choice Energy Agency



# MEMORANDUM OF UNDERSTANDING WITH THE CITY OF CARPINTERIA FOR MBCPA REPRESENTATION

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Presentation to the City Council  
October 15, 2019

Presentation by:  
Cindy Moore, Sustainability Coordinator



# 1. MBCPA Governance & Representation

- MBCPA Governing Bodies
  - ✓ Policy Board of Directors (Policy Board)
  - ✓ Operations Board of Directors (Operations Board)
- Board Seats & Alternates
  - ✓ Two-Year Terms
  - ✓ Policy Board – Elected Officials
  - ✓ Operations Board – City/Administrative Managers



## 2. Memorandum of Understanding

- Board Seats Based on Geography & Population
  - ✓ Governance Structure Requires Shared Seat with City of Carpinteria
  - ✓ MOU to Identify Process for Representation
    - Recognizing Specific Program Purposes
- Rotating Jurisdictions on Both Boards
  - ✓ Policy Board – Goleta
  - ✓ Operations Board – Carpinteria
  - ✓ Alternates – Representing the City Not Currently Holding the Seat in Question

### 3. City Council Recommendation

- A. Approve the draft MOU Between City of Goleta and City of Carpinteria Regarding Participation in the Monterey Bay Community Power Community Choice Energy Agency.
- B. Authorize the City Manager to execute the MOU in substantial conformance with the draft MOU, as approved by the City Attorney.

### 3. City Council Recommendation

- C. Consider the appointment of one member of the City Council as a Director to the Monterey Bay Community Power Authority's Policy Board of Directors.
- D. Consider the appointment of the City Manager, or Administrative Manager, as the Alternate to the Monterey Bay Community Power Authority's Operations Board of Directors.