



Staff Report Item 11

TO: East Bay Community Energy Board of Directors

FROM: Alex DiGiorgio, Public Engagement Manager

SUBJECT: Inclusion of New Communities: City of Stockton (Action Item)

DATE: September 21, 2022

Recommendations

Receive update and analysis on including the City of Stockton within EBCE's service area and take the following actions:

- A) Adopt a Resolution to authorize the City of Stockton to join the EBCE as a member agency and signatory to the JPA Agreement, with customer enrollments to begin in 2024;
- B) Direct staff to update Exhibit A ("List of Parties") of EBCE's Joint Powers Agreement to reflect the inclusion of the City of Stockton;
- C) Direct staff to update Exhibits B ("Annual Energy Use") and C ("Voting Shares Vote") of EBCE's Joint Powers Agreement with 2021 PG&E electric load data and to reflect the inclusion of the City of Stockton); and
- D) Adopt a Resolution to authorize staff to update EBCE's Implementation Plan to reflect the inclusion of the City of Stockton, and to submit the updated Implementation Plan to the California Public Utilities Commission (CPUC) before the end of calendar year 2022.

Background and Discussion

As a mission-driven public agency, EBCE strives to reduce energy-related greenhouse gas (GHG) emissions by providing more renewable energy at competitive rates while pioneering innovative programs and policies. To the extent EBCE retains and expands its customer base, it can accelerate the achievement of this mission. Moreover, by including new communities within its service area, EBCE can cultivate a more demographically diverse customer base; and more generally advance sustainable development, environmental justice, and energy democracy throughout neighboring communities in California.

New Community Inclusion: Requirements, Timing, Process

Section 3.1 of EBCE's Joint Powers Authority (JPA) Agreement refers to the "Addition of Parties," and provides for the possibility of including new cities and/or counties within the JPA and its corresponding service area.

Requirements: New community inclusion process and conditions of membership

In order to join EBCE, the following legal and procedural requirements must be met: **1)** the governing body of the prospective jurisdiction (i.e., the City Council or County Board of Supervisors) must pass a Resolution requesting to join EBCE and agreeing to become a signatory of the EBCE JPA Agreement, and pass an ordinance to implement a community choice aggregation program pursuant to Public Utilities Code Section 366.2; **2)** EBCE's Board must pass a Resolution authorizing the amendment of the JPA Agreement to add the prospective jurisdiction as a new member; and **3)** EBCE must update its Joint Powers Agreement Exhibits (A,B, and C) and submit an updated Implementation Plan to the California Public Utilities Commission (CPUC) reflecting the membership of the new jurisdiction(s) within EBCE's JPA.

The Stockton City Council has already adopted the required Resolution agreeing to become a signatory to EBCE's JPA Agreement and join EBCE, and an Ordinance pursuant to Public Utilities Code Section 366.2. The next step in Stockton's EBCE membership process is for the EBCE Board of Directors to adopt the proposed Resolution amending the JPA Agreement to add the City to EBCE's membership, with customer enrollments in Stockton to begin in 2024.

Section 3.1 of the JPA Agreement also provides for the satisfaction of other "additional conditions" for JPA membership, including "membership payment" or "membership fee", which are subject to the discretion of EBCE's Board. To date, the EBCE Board has not imposed such conditions on membership for new parties.

Stockton's elected leaders, City staff, and community members expect the City to be able to join EBCE's JPA and participate in its governance under the same conditions as all current members. If these expectations are not met, it could lead Stockton and/or future, prospective new member-jurisdictions in San Joaquin County or elsewhere to become less interested in joining EBCE. For these reasons, the Board is encouraged to proceed cautiously when considering conditions on new membership.

Once Stockton has joined EBCE and its membership is certified by the CPUC, the City will be entitled to appoint a member of the City Council to serve as a member of the EBCE Board of Directors.

Requirements: Update JPA Exhibits A, B, & C

To implement the addition of Stockton as a signatory and member of EBCE, the Board should update JPA Exhibits A ("List of Parties"); B ("Annual Energy Use"); and C ("Voting Shares"). Section 1.3 of the JPA Agreement provides that Exhibits A, B, and C may be revised upon the approval of the Board, without such revision constituting an amendment to the Agreement.

Exhibit A: "List of Parties"

Exhibit A lists the names of all jurisdictions which are members of EBCE's Joint Powers Authority. Updating this list is straightforward; it simply involves adding the names of new member jurisdictions, pending the passage of a Board Resolution authorizing their JPA membership.

If the Board authorizes the membership of the City of Stockton, the City's name must be added to Exhibit A listed in alphabetical order (draft Attached).

Recommendation: Pending Board authorization to include the City of Stockton, approve a motion to update Exhibit A to include the City among the "List of Parties."

Exhibits B & C: "Annual Energy Use" & "Voting Shares Vote"

Exhibits B and C list the annual energy use and the voting shares percentage of each member jurisdiction.

The Board voting procedures are set forth in *Section 4.12* of the JPA Agreement. According to *Section 4.12.1*, most Board decisions require a simple majority vote of all the Directors, with each jurisdiction having one equal vote.¹ This procedure is

¹ *Section 8.4* ("Amendment of this Agreement") requires a two-thirds majority vote to amend the JPA itself; and a three-quarters vote to amend the voting provisions of *Section 4.12*.

referred to as a “Percentage Vote.” Additionally, *Section 4.12.2* creates a “Voting Shares Vote” procedure, which may immediately follow an affirmative or a tied Percentage Vote if requested by three or more Directors. Under a Voting Shares Vote, each jurisdiction’s vote is essentially ‘weighted’ according to the size of its annual energy usage as compared to EBCE’s total annual energy (i.e., the collective, community-wide electricity demand within its borders). Historically, the Board has allowed new members to participate in ‘Voting Shares’ at their entry into EBCE, rather than waiting until service to the new community is launched.² Staff recommends the Board continue following this precedent, rather than risk alienating prospective new member-jurisdictions.

To date, the Voting Shares Vote provision of the JPA has been invoked exceedingly rarely—if ever. Indeed, no current EBCE staff member can recall an instance in which a vote of this type has occurred since EBCE’s formation in 2016.

Exhibit B sets forth the Annual Energy Use for each member-jurisdiction and EBCE’s Total Annual Energy use, for purposes of calculating members’ voting shares.

According to *Section 1.1.23* of the JPA Agreement, “Annual Energy Use” for the first two years after EBCE’s launch date (December 1, 2016) is based on the annual electricity usage within each member’s respective jurisdiction. After two years, the JPA Agreement provides that Annual Energy Use is to be based on the annual electricity usage of accounts served by EBCE within the member’s jurisdiction. The Total Annual Energy is the sum of all the member jurisdictions’ Annual Energy Use. The numbers in Exhibit B, together with the corresponding voting shares in Exhibit C, are supposed to be “adjusted annually as soon as reasonably practicable after January 1, but no later than March 1 each year subject to the approval of the Board.”

At the time of EBCE’s formation, Exhibit B relied on 2014 PG&E load data. Since 2019, EBCE has relied on 2018 PG&E load data.³ Staff recommendation is to update Exhibit B to reflect more current load data.

² When EBCE’s Board voted in 2019 to include the cities of Newark, Pleasanton, and Tracy, it did so with the intention of allowing those new member-jurisdictions to participate in Voting Shares Votes based on their respective, citywide PG&E load data if/when such votes were to occur. Staff recommends the current EBCE Board follow this precedent.

³ Since 2019, Exhibit B has relied on 2017 PG&E load data for the City of Newark. This was due to the lengthy time required to receive Newark’s requested 2018 load data from PG&E before the end of the 2019 calendar year.

Specifically, EBCE staff recommends the Board update Exhibit B using the most recent PG&E load data available (i.e., from calendar year 2021).⁴ This provides an ‘apples-to-apples’ comparison for each member jurisdiction and does not preclude the Board from transitioning to EBCE’s post-enrollment load data once a full calendar year of EBCE usage becomes available for the City of Stockton.

Exhibit C sets forth the Voting Shares for EBCE member jurisdictions based on the corresponding Annual Energy Use and Total Annual Energy numbers provided in Exhibit B. If the Board decides to follow staff’s recommendation and provides direction to update Exhibit B using 2021 PG&E load data, Exhibit C will be adjusted accordingly to reflect the Voting Shares percentage of each member jurisdiction.

Recommendation: Update Exhibit B using 2021 PG&E load data for “Annual Energy Use” and “Total Energy Use,” for all current EBCE member-jurisdictions and the City of Stockton) Update Exhibit C’s Voting Shares to correspond to updated numbers in Exhibit B. Consider updating Exhibits B and C again in 2023 using 2022 EBCE load data, when such data becomes available for EBCE member-jurisdictions.

Timing of new enrollments

In February of 2018, the CPUC passed [Resolution E-4907](#), which delays the timeline by which California cities and counties may begin service with Community Choice Aggregation (CCA) agencies, like EBCE. In effect, cities and counties must wait a full calendar year between the time they form or join a CCA and when electricity customers within their borders may be enrolled in the CCA’s service. As a result, any jurisdiction that requests to begin service with EBCE by 2024, must complete the process of joining EBCE’s JPA by the end of calendar year 2022. Otherwise, enrollment with EBCE will not be possible until 2025 or later.

Process

Given the requirements and timing articulated above, EBCE staff has drafted a document outlining the process to join EBCE in time to enroll customers in 2024 Please see attached: “Steps to Joining East Bay Community Energy (EBCE).”

The table below summarizes the City of Stockton’s EBCE membership consideration and implementation processes:

Date	Event
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⁴ The most recent PG&E load data available to EBCE is from calendar year 2021 for all jurisdictions, including the City of Stockton

Jan-April 2022	City completes PG&E load data request forms/non-disclosure agreements. EBCE staff receives load data from PG&E.
April-Aug 2022	EBCE conducts quantitative analysis to evaluate inclusion request. Preliminary analysis presented to City Manager & staff (attached).
June-July 2022	City of Stockton publishes ‘Sources Sought’ public notice re prospective EBCE membership (attached).
Sept 2022	City Council passes Resolution, Ordinance to join EBCE (attached). City Manager executes JPA signature page (attached).
Sept-Oct 2022	Earliest opportunities for EBCE Executive Committee (Exec Com), Board of Directors (BoD) and Community Advisory Committee (CAC) to consider quantitative analysis, inclusion request(s), and updates to JPA Agreement Exhibits A, B and C.
Oct-Dec 2022	Latest opportunities for EBCE Exec Com, BoD and CAC to consider quantitative analysis, inclusion request(s), and updates to JPA Agreement Exhibits A, B and C. Pending affirmative Board vote, staff updates Exhibits, and files updated Implementation Plan with CPUC.
2023	City of Stockton entitled to a seat on EBCE’s Board of Directors; EBCE’s community outreach to new communities begins. Some EBCE programs may become available to Stockton’s electricity customers (e.g. technical assistance w/energy resilience at critical municipal facilities).
2024	Customer account enrollments begin in Stockton.

New Community Inclusion: Eligible Communities: City of Stockton

The City Council of the following jurisdiction has approved a Resolution requesting to join EBCE and an Ordinance to implement EBCE's CCA program:

- 1) City of Stockton (San Joaquin County)

Fiscal Impact

The prospect of including a new, large city within EBCE’s Joint Powers Authority and service area—particularly one as dynamic and demographically diverse as Stockton⁵—presents considerable financial implications for the Agency. For this reason, EBCE staff conducted a Quantitative Analysis (QA) using the City’s annual PG&E load data (from calendar year 2021) to evaluate the cost of service to this prospective new member jurisdiction. The preliminary results of this analysis (attached) were presented to Stockton’s City Manager and staff on April 21, 2022.⁶

⁵ In 2020, *U.S. News & World Report* named Stockton as America's most diverse city: "*U.S. News Special Report: Stockton, Calif., Is the Most Diverse City in America*". *U.S. News & World Report*. January 22, 2020. For EBCE’s purposes, key demographics also include utility-focused, energy-specific measures, such as the proportion of residential vs non-residential/commercial/industrial/municipal electric accounts, their various sizes and unique load profiles, etc. For more general information about Stockton, please refer here: https://en.wikipedia.org/wiki/Stockton,_California#cite_ref-63

⁶ Please refer to the attached “Presentation: Stockton EBCE Membership: Preliminary Analysis”

In short, the purpose of the QA was to help answer the following, basic question: *Can EBCE include Stockton within its growing service area, while providing the same level of service (or better) offered to current JPA member-jurisdictions and their communities?* This level of service (also known as EBCE’s “Value Proposition”) offers customers competitive electricity rates with greater access to non-nuclear, carbon-free energy resources compared to standard PG&E service.⁷

Based on the results of the QA, staff is more than confident the answer to this question is ‘yes’.⁸

According to the QA, the additional electric load of Stockton is estimated to yield annual net revenues of approximately \$17.8 million to EBCE, or 12.4% above the cost of service to Stockton. This would have a positive fiscal impact on EBCE and its existing communities and customer base, potentially increasing EBCE’s overall net position by more than a percentage point (i.e., from 5.3% to 6.4%). These additional net revenues could be used to supplement EBCE reserves, reduce retail rates, and/or expand funding for local renewable energy project development and energy-related programs (e.g., rebates for energy storage, electric vehicles and EV charging infrastructure).

The table below summarizes the findings of the QA:

	<i>Stockton 2021</i>	EBCE 2021	EBCE w/Stockton 2024
Accounts	112,200	642,500	754,800
Annual Load _(MWh/yr)	1,337	6,453	7,790
Peak Load _(MW)	398	1,288	1,669
Net Position %	+12.4%	+5.3%	+6.4%
Net Position \$	\$17.8M	\$41.0M	\$58.8M

NOTES:

*Based on current overhead costs and expected market values/forecasts;

⁷ EBCE currently offers customers a Bright Choice electric rate discount of 3% (previously 1%); and a Renewable 100 premium of ¾ a penny per kilowatt-hour (previously \$0.01/kWh), compared to PG&E standard rates. Meanwhile, in 2021 (the most recent year for which data is available), EBCE’s non-nuclear carbon-free power supply was 58.2%; while PG&E’s was 52.7%, and California’s Statewide utility average was 42.8%. This power content information is publicly available through the [2021 EBCE/PG&E Annual Joint Rate Mailer](#) and [EBCE’s 2021 Power Content Label](#).

⁸ Please refer to the attached “Letter from CEO: EBCE Invitation to the City of Stockton”

- *Assumes 5% account opt out rate (slightly above EBCE's current service area-wide opt out rate);
- *Applies EBCE's 2022 rates from 2022-23 budget development;
- *Data excludes ineligible loads (e.g. BART, Direct Access, Standby);
- *Uses 2021 PG&E load data for Stockton;

Financial Stress Test: Modeling Wholesale Energy Market and Power Charge Indifference Adjustment (PCIA) Scenarios

To help the Board evaluate the financial risk associated with including the City of Stockton, the QA included a "Financial Stress Test." Among other things, this test measured the impact of two key cost variables: 1) wholesale energy market prices; and 2) the Power Charge Indifference Adjustment (PCIA).⁹

For example, a financial scenario could include a sustained wholesale energy price environment in which prices remain at EBCE's median forecasted levels, while the PCIA increases dramatically (e.g., the PCIA climbing to the 5th percentile in cost,). Per the Board's rate-setting policies, EBCE absorbs the cost of the PCIA to ensure its value proposition to customers (i.e., Bright Choice customers receive a 3% discount compared to PG&E's standard rates; and Renewable 100 customers pay an additional ¾ cent per kilowatt-hour above PG&E rates). In other words, EBCE's rate discount for Bright Choice customers, and the slight premium for Renewable 100 customers, remains consistent, despite any fluctuations in the PCIA. As such, dramatic increases in the PCIA can negatively impact EBCE's financial position.

In these conditions, EBCE could still 'break even' (i.e., the Agency's costs would be roughly equal to revenues during the sample year). Moreover, EBCE could take steps to mitigate the negative financial impacts of this scenario (e.g., by adjusting the Bright Choice discount from 3% to 2%).

EBCE staff also modeled a "worst case" scenario, defined as a sustained wholesale energy price environment in which costs vastly exceed forecasts (e.g., wholesale prices that are roughly 85% higher than forecasted, or in the 95th percentile). To be clear, a scenario of this kind would not be a temporary 'spike' in energy costs due to a weather event like a cold snap or a heat wave; it would be a prolonged energy market disruption lasting approximately a year or more, and likely the result of catastrophic events (e.g. a war between energy-rich countries; or an unprecedented natural disaster that destroys or extensively damages vast critical infrastructure, like natural gas pipelines and/or electric transmission networks).

⁹ The [PCIA](#) is a charge to ensure that both PG&E customers and those who have left PG&E to purchase electricity from other providers (e.g., EBCE and other community choice aggregators) pay for the above market costs for electric generation resources that were procured by PG&E on their behalf.

Under these conditions, EBCE could experience costs that exceed revenues by approximately 33%.¹⁰ Nevertheless, EBCE could still mitigate the financial impacts by 1) adjusting rates (e.g., reducing the Bright Choice discount/raising retail rates, and/or increasing the Renewable 100 premium); and 2) taking various cost-cutting measures (e.g., reducing the budgets of certain departments or programs).

While it is difficult to predict future energy market prices, or account for large-scale catastrophic events, the modeling and ‘stress tests’ routinely performed by EBCE staff provide a conservative lens through which to consider the City of Stockton’s membership request. As mentioned above, staff’s goal was to determine whether EBCE could include Stockton within its growing service area, while providing the same level of service offered to current JPA member-jurisdictions and their communities. Based on the results of the QA, staff is more than confident EBCE can do so.

Qualitative Considerations

Lastly, in addition to considering the governance and financial implications of Stockton’s EBCE membership, there are numerous qualitative benefits to consider as well. These include the following:

- **Diversity, Equity, and Inclusion (DEI)** - By expanding access to competitively priced renewable energy and related programs to frontline communities in California’s Central Valley, EBCE can continue to advance the Agency’s goals around diversity, equity, and inclusion;
- **Environmental Justice** - For a variety of systemic, economic, geographic, topographic, historical, and socio-political reasons, air pollution (among other forms of pollution) in Stockton and the greater San Joaquin Valley region represents an urgent public health challenge.¹¹ Pediatric asthma, in particular, is fairly widespread, affecting one in six children.¹² By providing alternatives to fossil fuel-based energy resources in the building, transportation, and agricultural sectors, EBCE can help advance environmental justice and increase the quality of life for local communities;
- **Local Programs** - Due to its size and stature as a global hub for agriculture, industry, and light/medium/heavy-duty trucking and goods transport, Stockton offers tremendous programmatic opportunities for EBCE’s transportation and building electrification endeavors. Staff from EBCE and the City of Stockton

¹⁰ The financial stress test assumes cost increase persist for an entire year. It estimates the cost of energy to be the percentage of additional load multiplied by the 2022-23 budgeted energy expenses. It does not include initial customer notification costs (e.g., four mailed enrollment notices, staff time, event fees, travel, etc.)

¹¹ <https://www.kvpr.org/local-news/2022-05-20/low-income-san-joaquin-valley-families-struggle-to-get-asthma-services-through-new-state-program>

¹² <https://www.scientificamerican.com/article/climate-change-is-bad-news-for-california-children-with-asthma/>

have identified multiple areas where the two agencies can begin collaborating right away;

- **Legislation and Political Influence** - By welcoming new State Assembly/Senate districts and new Federal Congressional districts into EBCE's service area, EBCE's current communities and customers will benefit from greater representation in Sacramento and Washington DC through EBCE's legislative and regulatory advocacy efforts;
- **CCA Proliferation, Public Power, and Energy Democracy** - When large, historic, and prominent cities, like Stockton, join California's CCA moment, they help catalyze public power and energy democracy throughout California by example. As with the City of Tracy, Stockton's EBCE membership would likely have a compounding positive impact by influencing neighboring Central Valley jurisdictions to consider CCA generally and/or EBCE membership specifically.

While difficult to measure, perhaps, these qualitative benefits and opportunities should not be underestimated. By including the City of Stockton within its service area, EBCE can cultivate a more demographically diverse customer base, while advancing sustainable development, environmental justice, and energy democracy in communities throughout California and the United States.

Staff Recommendation

1. Receive update and analysis on including the City of Stockton within EBCE's service area;
2. Adopt a Resolution to include the City of Stockton within EBCE's Joint Powers Authority and service area, with customer enrollments to begin in 2024;
3. Approve a motion to direct staff to update Exhibit A ("List of Parties") of EBCE's Joint Powers Agreement to reflect the inclusion of the City of Stockton.
4. Approve a motion to direct staff to update Exhibits B ("Annual Energy Use") and C ("Voting Shares Vote") of EBCE's Joint Powers Agreement with 2021 PG&E electric load data, and to reflect the inclusion of the City of Stockton;
5. Adopt a Resolution to authorize staff to update the Implementation Plan to reflect the inclusion of the City of Stockton, and to submit the updated Implementation Plan to the California Public Utilities Commission (CPUC) before the end of calendar year 2022.

Attachments

- A. Steps to Joining East Bay Community Energy;
- B. Presentation: City of Stockton EBCE Membership: Preliminary Analysis;
- C. Letter from CEO: EBCE Invitation to the City of Stockton;
- D. City of Stockton: Sources Sought Public Notice re EBCE membership
- E. City of Stockton's signed Resolution to join EBCE;
- F. City of Stockton's signed Ordinance to implement EBCE CCA
- G. Proposed EBCE Resolution to include the City of Stockton as a JPA member;
- H. Current EBCE Joint Powers Agreement including Exhibits A, B and C;
- I. Proposed Updates to Exhibits A, B and C to include the City of Stockton; and
- J. Proposed EBCE Resolution authorizing EBCE staff to update EBCE's Implementation Plan and submit it to the CPUC by the end of calendar year 2022;
- K. City of Stockton's signed EBCE JPA signature page.



Steps to joining East Bay Community Energy (EBCE)

- 1) Two presentations to Council:
 - Vote #1 on Ordinance & Resolution to join EBCE's Joint Powers Authority (JPA) Agreement;
 - Vote #2 on Ordinance – *Best if completed by July 2022 for a 2024 enrollment*;
- 2) EBCE Board considers Resolution to include prospective new community;
- 3) Pending Board approval, EBCE updates Joint Powers Agreement and files amended Implementation Plan with CPUC before 12/31/22;

2023: Community outreach in new community;

- Elected official of new community entitled to seat on EBCE Board of Directors;

2024: EBCE enrollment of electricity accounts begins in new community

APRIL 21, 2022

City of Stockton EBCE Membership: *Preliminary Analysis*



Data & Methodology

- We used historical data available from PG&E to model the impact of Stockton joining EBCE:
 - Item16 dataset summarizes customer information by month (2019,2020, 2021)
 - Item17 provides hourly usage information (2018, 2019, 2020, 2021)
 - We combined these two datasets to generate the most complete possible picture of Stockton hourly electricity use by customer and class
 - We focused the preliminary analysis on 2021
 - We will use the historical data to generate a forward-looking estimate
- Using 2021 data, we analyzed what electricity customers in Stockton *would have* paid in 2021 if they had been EBCE customers;
- Using 2021 data, we also estimated the increase in citywide renewable energy consumption;
- Separately, a preliminary cost/benefit analysis confirms that EBCE service could be expanded to Stockton without impacting EBCE's ability to achieve its value proposition of a 1% discount (relative to PG&E) for customers taking default Bright Choice service.

Summary Data

Attachment Staff Report Item 11B

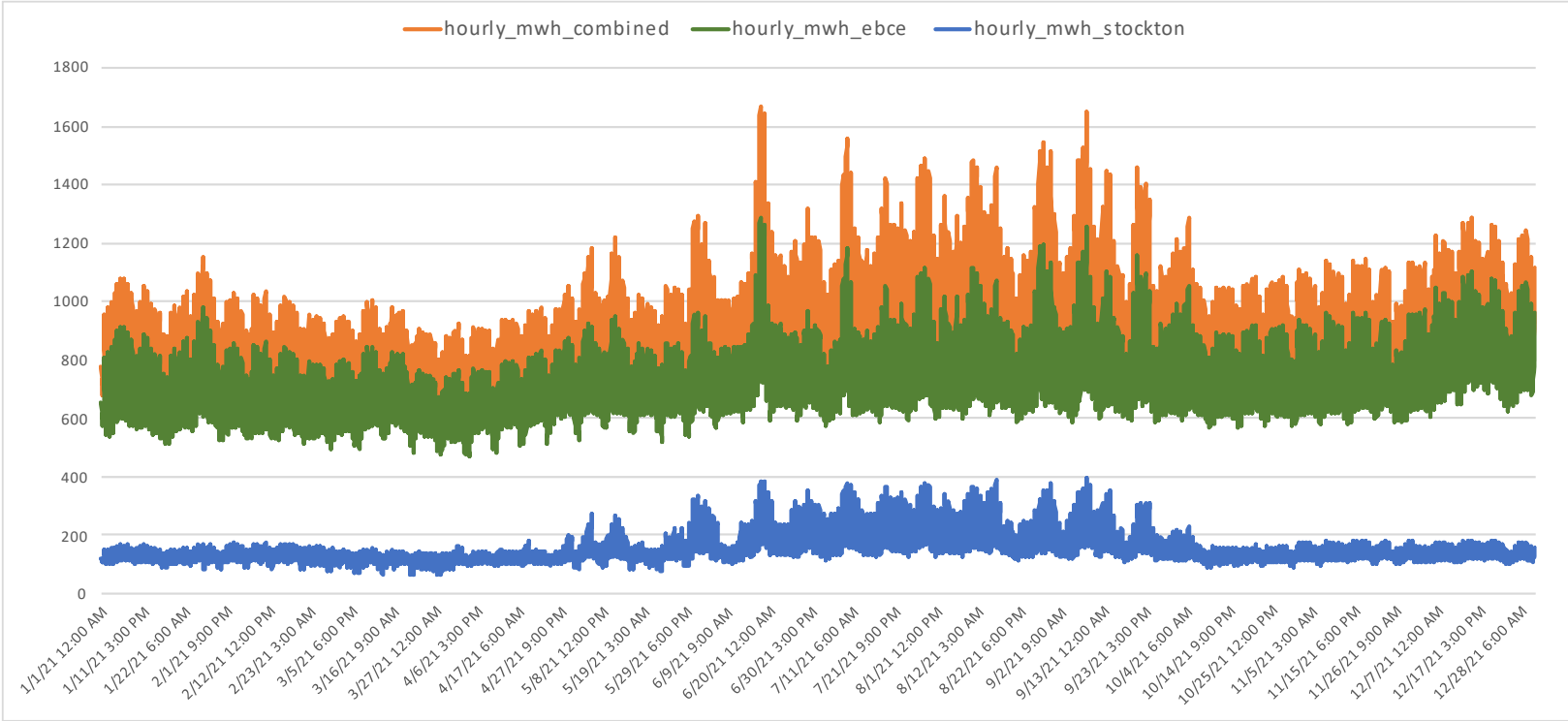
	Customer Count	Annual Load (GWh)	Peak Load (MW)	Peak Date & Time
EBCE	642,562	6,453	1,288	2021-06-17 @ 5pm
Stockton	112,254	1,337	398	2021-09-08 @ 5pm
Combined	754,816	7,790	1,669	2021-06-17 @ 5pm

Rate Class	EBCE		Stockton		Combined	
	2021 MWh	Percent	2021 MWh	Percent	2021 MWh	Percent
RES	1,339,074	21%	549,589	41%	1,888,662	24%
E19	1,259,000	20%	170,963	13%	1,429,963	18%
RES TOU	1,205,829	19%	131,285	10%	1,337,114	17%
A10	981,878	15%	168,335	13%	1,150,213	15%
A1	936,863	15%	155,108	12%	1,091,970	14%
E20	522,630	8%	149,772	11%	672,402	9%
EV	115,299	2%	272	0%	115,571	1%
AGR	43,794	1%	1,084	0%	44,878	1%
LS	41,444	1%	9,888	1%	51,331	1%
TC	6,842	0%	932	0%	7,774	0%
Total	6,452,653		1,337,227		7,789,880	

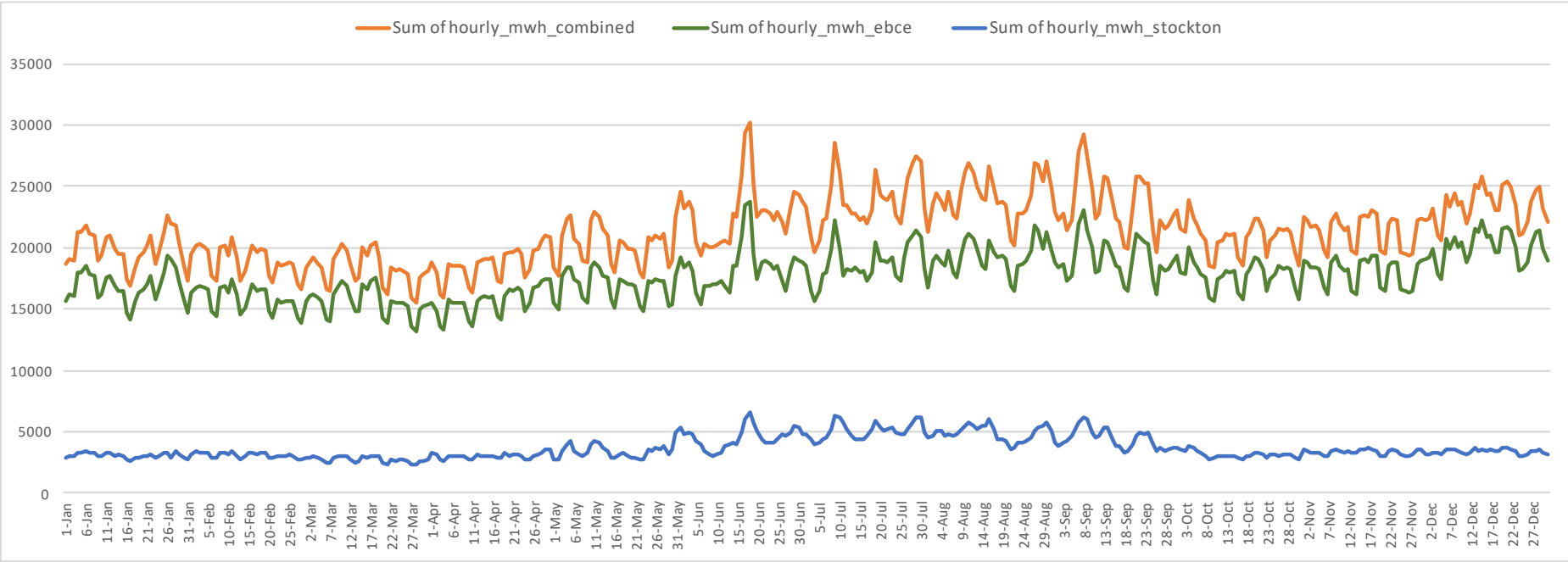
* Data presented here and throughout excludes Direct Access customers

** Standard PG&E Reports do not provide information allowing us to parse out NEM (Solar) customers.

2021 Hourly Load

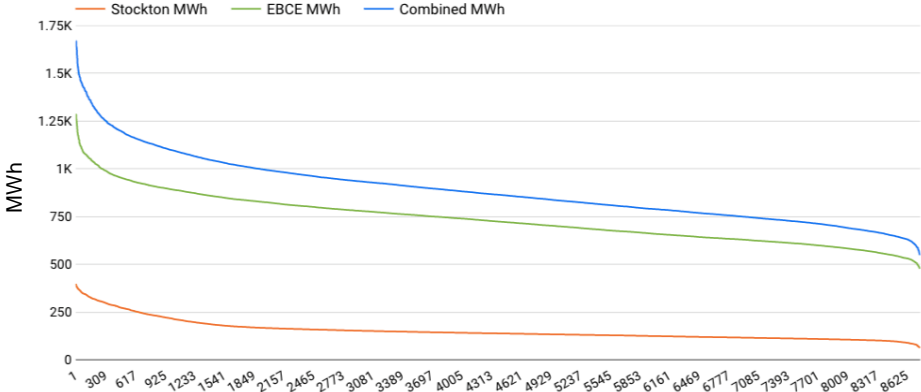
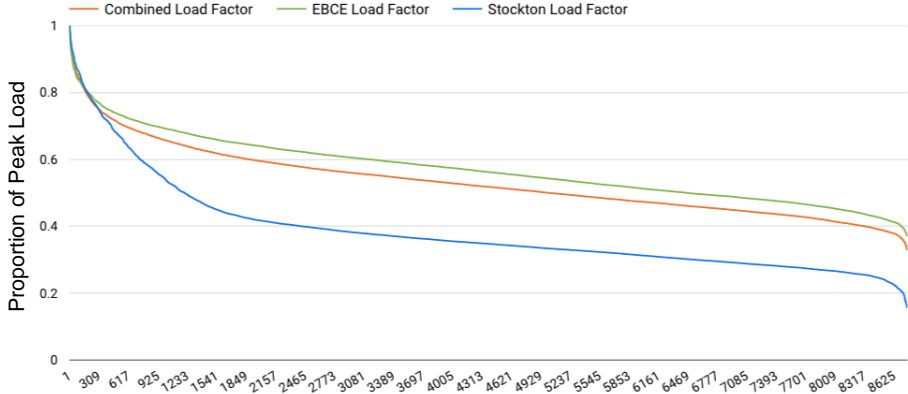


2021 Daily Load



Load in Stockton v. Current EBCE Load

- Stockton load is “peakier” than EBCE's
- Diversity in the timing of peaks means that the addition of Stockton would not substantially impact EBCE’s load distribution throughout the year



Summary Results - 2021

- Stockton consumption:
 - **1,337 GWh** (20.8% of EBCE’s current load)
- Average PG&E electricity cost for Stockton customers in 2021:
 - **11.2¢** per kWh
- In 2021, EBCE’s “Bright Choice” product would have:
 - Reduced customer expenditures by **\$1.49M**
 - Increased renewable consumption by at least 6%
 - 80 GWh, or enough to power **15,700 homes for a year**

Next Steps

City of Stockton

- Review analysis & follow up with questions/clarifications for EBCE staff;
- Pending City Manager approval, agendize Ordinance + Resolution re EBCE JPA membership; preferably for consideration at Council meeting in May or June;
- Two (2) readings of Ordinance required

EBCE

- Perform complete cost/benefit analysis using forecasted data to examine conditions in 2024 and beyond;
- Perform internal due diligence to determine timing of certain cost obligations should Stockton join EBCE (Resource Adequacy primarily);
- Pending second reading of City's Ordinance to join JPA, update EBCE Implementation Plan and submit it to CPUC by Dec 2022 (for Stockton's prospective 2024 enrollment)



May 12, 2022

Dear City Manager Black,

On behalf of East Bay Community Energy (EBCE), I am pleased to confirm our staff has completed its membership analysis for the City of Stockton. We had the pleasure of sharing the positive, preliminary findings with your staff on April 21 and thought it would be helpful to summarize our final conclusions via this correspondence.

To recap, the membership analysis involved 1) a quantitative assessment of Stockton's citywide, electric usage data (as provided by PG&E); and 2) an evaluation of EBCE's ability to serve electricity customers throughout the City.

In short, our goal was to answer the following question: Can EBCE include the City of Stockton within our growing service area and Joint Powers Authority (JPA), while offering the same level of service we provide current JPA member-jurisdictions and their communities?

Based on our analysis, we are more than confident we can.

Moreover, based on our experience serving similarly sized cities—and operating one of California's largest, most demographically-diverse Community Choice Aggregation (CCA) agencies—we believe an enduring partnership between Stockton and EBCE would advance our mutual, energy-related interests.

Among other things, these include access to more competitive rates and renewable energy supplies. Collectively, EBCE customers have saved about \$10 million a year in rate savings, even while they have purchased more renewable energy than they would have with PG&E. Our analysis determined Stockton's energy consumers would have experienced similar benefits.

For example, if the City's residents and businesses had received EBCE service throughout 2021, they would have collectively saved nearly \$1.5 million on their utility bills. Meanwhile, they would have purchased at least 6% more renewable energy compared to what PG&E supplied that year. This latter figure may seem modest, but it represents approximately 80 Gigawatt-hours of clean energy—enough to sustainably power 15,700 homes for a year.

Additionally, a partnership with Stockton would help EBCE (and the State of California, more generally) accelerate efforts to electrify the building and transportation sectors. Expanding access to Direct Current Fast Charging (DCFC) hubs in Stockton and the Central Valley is critical to this endeavor, particularly given the region's status as one of America's most important trading hubs. I know improving local air quality in Stockton is a major area of

focus for the City Council, and a partnership with EBCE to deliver electric transportation solutions to residents and businesses will be a top priority.

Similar investments in local energy resilience (such as installing solar + battery storage systems at critical municipal facilities) are also among EBCE's forward-looking strategies to help our communities mitigate and adapt to climate change. If successful, EBCE's efforts in these areas will not only present new development opportunities; they will also enhance the quality of life by helping to reduce local air pollution and create new, green-collar jobs.

I would be remiss if I failed to convey what a pleasure it has been to work with your talented and dedicated team. As we continue to explore the possibility of Stockton's EBCE membership, the prospect of collaborating more closely together is highly motivating.

In consideration of the above, **I would like to formally invite the City of Stockton to initiate the process of joining the East Bay Community Energy Authority.** We stand ready to partner with the City of Stockton to deliver cleaner, more affordable electricity to your residents and businesses. To do so, the City of Stockton City Council must pass a resolution to join the East Bay Community Energy Authority and an ordinance to implement a community choice aggregation program by joining EBCE's Joint Power Authority. A detailed description of the membership process is included as an attachment to this letter.

Finally, I want to note that this process will carry no direct cost to the City of Stockton, through either this assessment phase or upon joining the EBCE JPA.

If you have questions or would like any additional information, please do not hesitate to contact me at your convenience.

Many thanks,

Nick Chaset
Chief Executive Officer, EBCE

Attachments (3):

- 1) City of Stockton Membership Analysis,
- 2) Joining East Bay Community Energy,
- 3) Intro to East Bay Community Energy: Lower Costs + Greener Electricity + Community Investments

**PUR 23-000
NOTICE SOURCES SOUGHT**

**INTENT TO JOIN EAST BAY COMMUNITY ENERGY AUTHORITY
JOINT POWERS AGREEMENT**

The City of Stockton (“the City”) intends to pursue the process of joining the East Bay Community Energy (EBCE) Joint Powers Agreement and implement a Community Choice Aggregation (CCA) program. This decision is based on a CCA feasibility study that was presented to City Council in March 2021, which recommended a transition to a CCA agency. However, due to financial constraints, the City determined the only prudent path forward is to join an existing joint powers authority (JPA) to avoid the significant upfront costs and protect the City’s assets. The City is publishing Notice to better understand the CCA marketplace and determine if there are any other agencies that could offer more advantageous or suitable benefits to the City.

Specific objectives for such a project may include:

- No upfront cost to the City;
- Procure electricity at a lower cost than current cost for residents, businesses, and local government operations; and
- Funding for local energy efficiency projects and programs that will create jobs for local residents, provide benefits to customers, and bolster climate resilience.
- Governance structure that affords meaningful opportunities for the City to weigh in on decision making, particularly regarding rate setting.

The City intends to pursue membership with EBCE because it can fulfill the aforementioned objectives, such as offering lower or competitive electricity rates than PG&E for similar products. Furthermore, EBCE can deliver clean energy programs and projects using a stable, skilled workforce through such mechanisms as project labor agreements, or other workforce programs that are cost effective, designed to avoid work stoppages, and ensure quality. The City is interested in attracting these opportunities to create jobs and reap the benefits of clean energy programs. The City is also preferential to a local CCA that is responsive to regional priorities, such as electrifying major transit corridors. EBCE’s proximity to Stockton ensures these regional priorities are shared and will be acted upon in the near future.

This notice shall not be construed as a request for quotation, proposal, or as any commitment or obligation on the part of the City to issue a future solicitation. However, all responses received by the deadline will be considered by the City. A determination by the City not to join the proposed JPA based upon responses to this notice is solely within the discretion of the City. Information received will normally be considered solely for the purpose of determining whether to conduct a competitive procurement.

Submission Instructions: Responses via email are due Wednesday, July 15, 2022, to Grant.Kirkpatrick@stocktonca.gov and must include the information requested below. Responses greater than three (3) double-sided pages (including all attachments) will not be considered. Late responses will not be accepted. This is strictly market research and the City will not entertain any questions.

No reimbursement will be made for any costs associated with providing information in response to this synopsis or any follow-up information requests. Respondents will not be notified of the results of the evaluation. We appreciate your interest and thank you in advance for responding to the Notice.

Qualified firms shall submit a statement of interest on company letterhead demonstrating the firm's qualifications to perform the defined work. Responses must be complete and sufficiently detailed to address the specific information. The documentation shall address, at a minimum, the following:

- A. Agency Profile to include:
 1. Agency name and address;
 2. Current membership information: names of all current members of the JPA;
 3. Year the agency was established, number of employees, and current electrical load served;
 4. Two points of contact (names, titles, phone numbers and email addresses);
- B. Documentation of the agency's ability to obtain financing, or use current financial reserves, to offer membership to the City at no upfront cost.
- C. Bonding capability.
- D. Documentation of the agency's ability to procure adequate resources to meet the current and projected electrical load of the City (response should be based on the data included in the City's publicly available [March 2021 CCA Feasibility Study](#)).
- E. Documentation of the agency's current or planned energy efficiency projects and/or programs, and an explanation of how they could benefit the City.
- F. Signature block to include the following statement, "This information is true and correct to the best of my knowledge. Agent to print and sign name and title.

Resolution No. **2022-09-13-1504**

STOCKTON CITY COUNCIL

RESOLUTION TO AUTHORIZE THE CITY OF STOCKTON'S MEMBERSHIP IN THE EAST BAY COMMUNITY ENERGY AUTHORITY AND PARTICIPATION IN ITS COMMUNITY CHOICE AGGREGATION PROGRAM

The City of Stockton has been actively investigating options to provide electricity supply services to constituents within the City with the intent of achieving greater local involvement over the provision of electric supply services, competitive electric rates, the development of local renewable energy projects, reduced greenhouse gas emissions and the wider implementation of energy conservation and efficiency projects and programs, and

Community Choice Aggregation (CCA) is a mechanism by which local governments assume responsibility for supplying electrical power for residential and commercial customers in their jurisdiction in partnership and competition with local commercial energy purveyors and owners of transmission facilities, which in the case of the City of Stockton is Pacific Gas & Electric Co., and

CCA has the potential to reduce greenhouse gas emissions related to the use of power in the City of Stockton; provide electric power to customers at a competitive cost; carry out programs to reduce energy consumption; stimulate and sustain the local economy by developing local jobs in renewable energy; and through local control of electric generation resources, and

Staff has examined and identified CCA as a key strategy to meet local clean energy goals and projected greenhouse gas reduction targets, and

City of Stockton has completed studies and taken additional proactive steps to determine a CCA program is feasible, and

Alameda County and cities in Alameda County have developed the East Bay Community Energy Authority Joint Powers Agreement (JPA) which creates the East Bay Community Energy Authority (EBCE) which governs and operates its CCA program, and

EBCE is interested in providing potential services to the City of Stockton and made a presentation to City Council at its special meeting of November 9, 2021, and formally invited the City to pursue membership on May 12, 2022, and

A standard JPA Agreement must be executed with EBCE to participate in the CCA program; now, therefore,

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The recommendation in this report is not a project under the California Environmental Quality Act (CEQA) because it does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Sections 15378, therefore, not subject to CEQA pursuant to CEQA Guidelines section 15060.

2. The City Council of Stockton hereby approves the agreement titled "East Bay Community Energy Authority – Joint Powers Agreement" in order to participate with other signatories in a Community Choice Aggregation JPA for regional municipalities.


3. The City Manager is authorized to execute the agreement.

4. The City Manager is hereby authorized to take appropriate and necessary actions to carry out the purpose and intent of the Resolution.

PASSED, APPROVED, and ADOPTED September 13, 2022.

ATTEST:





ELIZA R. GARZA, CMC
City Clerk of the City of Stockton



KEVIN J. LINCOLN II
Mayor of the City of Stockton

ORDINANCE NO. 2022-09-13-1504

AN ORDINANCE OF THE CITY OF STOCKTON APPROVING THE EAST BAY COMMUNITY ENERGY AUTHORITY JOINT POWERS AGREEMENT AND AUTHORIZING IMPLEMENTATION OF ITS COMMUNITY CHOICE AGGREGATION PROGRAM

WHEREAS, The City of Stockton has an interest in achieving greater local involvement over the provision of electricity supply services, competitive electric rates, the development of local renewable energy projects, reduced greenhouse gas emissions, and the wider implementation of energy conservation and efficiency projects and programs; and

WHEREAS, Assembly Bill 117 codified as Public Utilities Code Section 366.2 (the "Act"), authorizes any California city or county whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation (CCA"); and

WHEREAS, The Act allows a CCA program to be carried out under a joint powers agreement entered into by entities that each have capacity to implement a CCA program individually. The joint powers agreement structure reduces the risks of implementing a CCA program by immunizing the financial assets of participants; and

WHEREAS, The City of Stockton CCA feasibility study and evaluation showed that implementing a program was likely to provide multiple benefits to the residents, including the following:

1. Providing customers a choice of power providers;
2. Increasing local control over energy rates and other energy-related matters;
3. Providing electric rates that are competitive with those provided by the incumbent utility;
4. Reducing greenhouse gas emissions arising from electricity use;
5. Increasing local and regional renewable generation capacity;
6. Increasing energy conservation and efficiency projects and programs;
7. Encouraging local economic and employment benefits through energy conservation and efficiency projects.

WHEREAS, Representatives from Alameda County and Alameda County cities have developed the East Bay Community Energy Authority Joint Powers Agreement ("Joint Powers Agreement"), attached hereto as Exhibit A. The Joint Powers Agreement creates the East Bay Community Energy Authority ("Authority") which will govern and operate the CCA program. The County and a majority of major Alameda County cities have elected to participate in the CCA program by executing the Joint Powers Agreement and adopting an ordinance electing to implement a CCA program, as required by Public Utilities Code Section 366.2(c)(12), and

WHEREAS, The Authority has entered into agreements with electric power suppliers and other service providers and, based upon those agreements, the Authority has provided electrical power to residents and businesses at rates that are competitive with those of the incumbent utility. Upon the California Public Utilities Commission's certification of the implementation plan prepared by the Authority, the Authority has provided service to customers within its member jurisdictions. 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 continue to receive service from the incumbent utility will be able to request to do so at any time, and

WHEREAS, The Authority made a presentation to City Council at its November 9, 2021, meeting; showed interest in exploring potential services to the City of Stockton; and the City Council authorized staff to investigate participation in the CCA program with the Authority, and

WHEREAS, Concurrent with the introduction of this ordinance, the City Council considered a resolution that authorized the City Manager to execute the East Bay Community Energy Authority Joint Powers Agreement;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION 1. FINDINGS.

Based upon the findings set forth hereinabove, the City Council elects to participate in, and approves the implementation of a Community Choice Aggregation program within the City of Stockton's jurisdiction by and through the East Bay Community Energy Authority.

SECTION 2. ENVIRONMENTAL.

The passage of this ordinance is not a project under the California Environmental Quality Act (CEQA) because it does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Sections 15378, therefore, not subject to CEQA pursuant to CEQA Guidelines Section 15060.

SECTION 3. SEVERABILITY.

If any part of this ordinance is declared invalid by a court, such validity shall not affect any of the remaining parts.

SECTION 4. PUBLICATION.

This ordinance shall be published once in a newspaper of general circulation of the City of Stockton within fifteen days after its adoption.

SECTION 4. EFFECTIVE DATE.

This ordinance shall take effect and be in full force thirty (30) days after its passage.

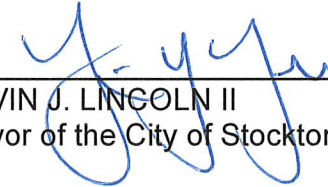
ADOPTED: 9/13/2022

EFFECTIVE: 10/13/2022

ATTEST:



ELIZA R. GARZA, CMC
City Clerk of the City of Stockton



KEVIN J. LINCOLN II
Mayor of the City of Stockton

RESOLUTION NO. __

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CITY OF
STOCKTON TO BECOME A PARTY TO THE JOINT POWERS AGREEMENT AND MEMBER
OF EBCE**

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

WHEREAS, on September 24, 2002, the Governor of California signed into law Assembly Bill 117 (Stat. 2002, Ch. 838; see California Public Utilities Code section 366.2; hereinafter referred to as the “Act”), which authorizes any California city or county, whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation (“CCA”); and,

WHEREAS, the Act expressly authorizes participation in a CCA program through a joint powers agency; and on December 1, 2016, the East Bay Community Energy Authority (“EBCE” or “the Agency”) was formed under the Joint Exercise of Power Act, California Government Code sections 6500 *et seq.*, among the County of Alameda, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs in all of the member jurisdictions; and

WHEREAS, on November 8, 2017, the California Public Utilities Commission (“CPUC”) certified the “Implementation Plan” of EBCE, confirming EBCE’s compliance with the requirements of the Act; and

WHEREAS, Section 3.1 of the EBCE Joint Powers Agreement (“Agreement”) sets forth the procedures for the addition of new member jurisdictions; and

WHEREAS, on November 20, 2019, EBCE’s Board of Directors unanimously authorized the cities of Tracy, Pleasanton, and Newark to become new parties to the Agreement with EBCE service beginning in those jurisdictions in April 2021; and

WHEREAS, on December 20, 2019, EBCE submitted an updated “Implementation Plan” to the CPUC reflecting the membership of the cities of Tracy, Pleasanton, and Newark to the Agreement and EBCE service area; and

WHEREAS, including new member jurisdictions within EBCE’s Joint Powers Authority can benefit EBCE communities, customers, and the general public by 1) expanding access to competitively-priced renewable energy, innovative programs and equitable policies; 2) achieving greater economies of scale while accelerating the

reduction of greenhouse gas emissions; 3) enhancing EBCE's financial strength through increased revenues and reserves; 4) diversifying the Agency's service area while advancing environmental justice in historically marginalized communities; 5) empowering local stakeholders with more direct representation before State-level regulators and elected officials; and 6) inspiring more cities and counties to explore public power options in California and nationwide; and

WHEREAS, on September 13, 2022, through a unanimous vote of its City Council, the City of Stockton expressed its intention of joining EBCE and participating in the Agency's CCA program by passing a resolution to request membership in EBCE and introducing an ordinance to implement a CCA program as required by Public Utilities Code section 366.2; and

WHEREAS, EBCE conducted a quantitative analysis to examine the cost of service to the City of Stockton, which indicated positive financial and environmental benefits from their membership to the prospective City as well as to EBCE's current communities and customer base; and,

WHEREAS, per CPUC rules, prospective member jurisdictions must join EBCE before the end of calendar year 2022 to begin customer enrollments in EBCE's service options by 2024; and

WHEREAS, Section 3.1 of the Agreement requires the Board of Directors to adopt a resolution authorizing the membership of additional member jurisdictions, and specifying the membership payment and conditions for membership, if any.

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

Section 1. The City of Stockton is hereby authorized to become a party to the Agreement and a member of EBCE, subject to the following conditions:

(a) The Community Choice Aggregation ordinance adopted by the City of Stockton becoming effective.

(b) The execution of the Agreement by the duly authorized official of the City of Stockton.

Section 2. Exhibits A, B, and C of the Agreement are hereby revised to include updated energy load information and to include Stockton as a member of EBCE. Revised Exhibits are attached to this agreement and incorporated herein.

Section 3. The CEO and General Counsel are hereby authorized to take all necessary implementing actions to effectuate this Resolution, including but not limited to filing the revised Agreement with the Secretary of State and applicable Local Agency Formation Commissions, as required by state law.

ADOPTED AND APPROVED this 21st day of September, 2022.

Dianne Martinez, Chair

ATTEST:

Adrian Bankhead, Secretary

East Bay Community Energy Authority

- Joint Powers Agreement –

Effective December 1, 2016
As amended by Resolution No. 2018-23 dated June 20, 2018

Among The Following Parties:

County of Alameda

City of Albany

City of Berkeley

City of Dublin

City of Emeryville

City of Fremont

City of Hayward

City of Livermore

City of Newark

City of Oakland

City of Piedmont

City of Pleasanton

City of San Leandro

City of Tracy

City of Union City

EAST BAY COMMUNITY ENERGY AUTHORITY
JOINT POWERS AGREEMENT

This Joint Powers Agreement (“Agreement”), effective as of December 1, 2016, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 *et seq.*) of the California Government Code relating to the joint exercise of powers among the parties set forth in Exhibit A (“Parties”). The term “Parties” shall also include an incorporated municipality or county added to this Agreement in accordance with Section 3.1.

RECITALS

1. The Parties are either incorporated municipalities or counties sharing various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and their inhabitants.
2. 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 government to develop programs to reduce greenhouse gas emissions.
3. The purposes for the Initial Participants (as such term is defined in Section 1.1.16 below) entering into this Agreement include securing electrical energy supply for customers in participating jurisdictions, addressing climate change by reducing energy related greenhouse gas emissions, promoting electrical rate price stability, and fostering local economic benefits such as jobs creation, community energy programs and local power development. 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 State, regional and local solar and wind energy production.
4. The Parties desire to establish a separate public agency, known as the East Bay Community Energy Authority (“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.
5. The Initial Participants have each adopted an ordinance electing to implement through the Authority a Community Choice Aggregation program pursuant to California Public Utilities Code Section 366.2 (“CCA Program”). The first priority of the Authority will be the consideration of those actions necessary to implement the CCA Program.
6. By establishing the Authority, the Parties seek to:
 - (a) Provide electricity rates that are lower or competitive with those offered by PG&E for similar products;

- (b) Offer differentiated energy options (e.g. 33% or 50% qualified renewable) for default service, and a 100% renewable content option in which customers may “opt-up” and voluntarily participate;
- (c) Develop an electric supply portfolio with a lower greenhouse gas (GHG) intensity than PG&E, and one that supports the achievement of the parties’ greenhouse gas reduction goals and the comparable goals of all participating jurisdictions;
- (d) Establish an energy portfolio that prioritizes the use and development of local renewable resources and minimizes the use of unbundled renewable energy credits;
- (e) Promote an energy portfolio that incorporates energy efficiency and demand response programs and has aggressive reduced consumption goals;
- (f) Demonstrate quantifiable economic benefits to the region (e.g. union and prevailing wage jobs, local workforce development, new energy programs, and increased local energy investments);
- (g) Recognize the value of workers in existing jobs that support the energy infrastructure of Alameda County and Northern California. The Authority, as a leader in the shift to a clean energy, commits to ensuring it will take steps to minimize any adverse impacts to these workers to ensure a “just transition” to the new clean energy economy;
- (h) Deliver clean energy programs and projects using a stable, skilled workforce through such mechanisms as project labor agreements, or other workforce programs that are cost effective, designed to avoid work stoppages, and ensure quality;
- (i) Promote personal and community ownership of renewable resources, spurring equitable economic development and increased resilience, especially in low income communities;
- (j) Provide and manage lower cost energy supplies in a manner that provides cost savings to low-income households and promotes public health in areas impacted by energy production; and
- (k) Create an administering agency that is financially sustainable, responsive to regional priorities, well managed, and a leader in fair and equitable treatment of employees through adopting appropriate best practices employment policies, including, but not limited to, promoting efficient consideration of petitions to unionize, and providing appropriate wages and benefits.

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 CONTRACT DOCUMENTS

1.1 Definitions. Capitalized terms used in the Agreement shall have the meanings specified below, unless the context requires otherwise.

- 1.1.1** “AB 117” means Assembly Bill 117 (Stat. 2002, ch. 838, codified at Public Utilities Code Section 366.2), which created CCA.
- 1.1.2** “Act” means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq.*)
- 1.1.3** “Agreement” means this Joint Powers Agreement.
- 1.1.4** “Annual Energy Use” has the meaning given in Section 1.1.23.
- 1.1.5** “Authority” means the East Bay Community Energy Authority established pursuant to this Joint Powers Agreement.
- 1.1.6** “Authority Document(s)” means document(s) duly adopted by the Board 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.
- 1.1.7** “Board” means the Board of Directors of the Authority.
- 1.1.8** “Community Choice Aggregation” or “CCA” means an electric service option available to cities and counties pursuant to Public Utilities Code Section 366.2.
- 1.1.9** “CCA Program” means the Authority’s program relating to CCA that is principally described in Sections 2.4 and 5.1.
- 1.1.10** “Days” shall mean calendar days unless otherwise specified by this Agreement.
- 1.1.11** “Director” means a member of the Board of Directors representing a Party, including an alternate Director.
- 1.1.12** “Effective Date” means the date on which this Agreement shall become effective and the East Bay Community Energy Authority shall exist as a separate public agency, as further described in Section 2.1.

- 1.1.13** “Ex Officio Board Member” means a non-voting member of the Board of Directors as described in Section 4.2.2. The Ex Officio Board Member may not serve on the Executive Committee of the Board or participate in closed session meetings of the Board.
- 1.1.14** “Implementation Plan” means the plan generally described in Section 5.1.2 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.
- 1.1.15** “Initial Costs” means all costs incurred by the Authority relating to the establishment and initial operation of the Authority, such as the hiring of a Chief Executive Officer and any administrative staff, any required accounting, administrative, technical and legal services in support of the Authority’s initial formation activities or in support of the negotiation, preparation and approval of power purchase agreements. The Board shall determine the termination date for Initial Costs.
- 1.1.16** “Initial Participants” means, for the purpose of this Agreement the County of Alameda, the Cities of Albany, Berkeley, Emeryville, Oakland, Piedmont, San Leandro, Hayward, Union City, Fremont, Dublin, and Livermore.
- 1.1.17** “Operating Rules and Regulations” means the rules, regulations, policies, bylaws and procedures governing the operation of the Authority.
- 1.1.18** “Parties” means, collectively, the signatories to this Agreement that have satisfied the conditions in Sections 2.2 or 3.1 such that it is considered a member of the Authority.
- 1.1.19** “Party” means, singularly, a signatory to this Agreement that has satisfied the conditions in Sections 2.2 or 3.1 such that it is considered a member of the Authority.
- 1.1.20** “Percentage Vote” means a vote taken by the Board pursuant to Section 4.12.1 that is based on each Party having one equal vote.
- 1.1.21** “Total Annual Energy” has the meaning given in Section 1.1.23.
- 1.1.22** “Voting Shares Vote” means a vote taken by the Board pursuant to Section 4.12.2 that is based on the voting shares of each Party described in Section 1.1.23 and set forth in Exhibit C to this Agreement. A Voting Shares vote cannot take place on a matter unless the matter first receives an affirmative or tie Percentage Vote in the manner required by Section 4.12.1 and three or more Directors immediately thereafter request such vote.

1.1.23 “Voting Shares Formula” means the weight applied to a Voting Shares Vote and is determined by the following formula:

(Annual Energy Use/Total Annual Energy) multiplied by 100, where (a) “Annual Energy Use” means (i) with respect to the first two years following the Effective Date, the annual electricity usage, expressed in kilowatt hours (“kWh”), within the Party’s respective jurisdiction and (ii) with respect to the period after the second anniversary of the Effective Date, the annual electricity usage, expressed in kWh, of accounts within a Party’s respective jurisdiction that are served by the Authority and (b) “Total Annual Energy” means the sum of all Parties’ Annual Energy Use. The initial values for Annual Energy use are designated in Exhibit B and the initial voting shares are designated in Exhibit C. Both Exhibits B and C shall be adjusted annually as soon as reasonably practicable after January 1, but no later than March 1 of each year subject to the approval of the Board.

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: List of the Parties
- Exhibit B: Annual Energy Use
- Exhibit C: Voting Shares

1.3 **Revision of Exhibits.** The Parties agree that Exhibits A, B and C to this Agreement describe certain administrative matters that may be revised upon the approval of the Board, without such revision constituting an amendment to this Agreement, as described in Section 8.4. The Authority shall provide written notice to the Parties of the revision of any such exhibit.

ARTICLE 2

FORMATION OF EAST BAY COMMUNITY ENERGY AUTHORITY

2.1 **Effective Date and Term.** This Agreement shall become effective and East Bay Community Energy Authority shall exist as a separate public agency on December 1, 2016, provided that this Agreement is executed on or prior to such date by at least three Initial Participants 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 7.3, subject to the rights of the Parties to withdraw from the Authority.

2.2 **Initial Participants.** Until December 31, 2016, all other Initial Participants may become a Party by executing this Agreement and delivering an executed copy of this Agreement and a copy of the adopted ordinance required by Public Utilities Code Section 366.2(c)(12) to the Authority. Additional conditions, described in Section 3.1, may apply (i) to either an

incorporated municipality or county desiring to become a Party that is not an Initial Participant and (ii) to Initial Participants that have not executed and delivered this Agreement within the time period described above.

2.3 Formation. There is formed as of the Effective Date a public agency named the East Bay Community Energy Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public agency separate from the Parties. 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 8.4 of this Agreement, this Section 2.3 may not be amended unless such amendment is approved by the governing boards of all Parties.

2.4 Purpose. The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party and any other powers granted to the Authority under state law to participate as a group in the CCA Program pursuant to Public Utilities Code Section 366.2(c)(12); to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs; and, to exercise all other powers necessary and incidental to accomplishing this purpose.

2.5 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:

- 2.5.1** to make and enter into contracts, including those relating to the purchase or sale of electrical energy or attributes thereof;
- 2.5.2** to employ agents and employees, including but not limited to a Chief Executive Officer and General Counsel;
- 2.5.3** to acquire, contract, manage, maintain, and operate any buildings, works or improvements, including electric generating facilities;
- 2.5.4** 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;
- 2.5.5** to lease any property;
- 2.5.6** to sue and be sued in its own name;
- 2.5.7** 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 Section 53850 *et seq.* and authority under the Act;

- 2.5.8 to form subsidiary or independent corporations or entities, if appropriate, to carry out energy supply and energy conservation programs at the lowest possible cost consistent with the Authority's CCA Program implementation plan, risk management policies, or to take advantage of legislative or regulatory changes;
- 2.5.9 to issue revenue bonds and other forms of indebtedness;
- 2.5.10 to apply for, accept, and receive all licenses, permits, grants, loans or other assistance from any federal, state or local public agency;
- 2.5.11 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;
- 2.5.12 to adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority ("Operating Rules and Regulations");
- 2.5.13 to make and enter into service, energy and any other agreements 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
- 2.5.14 to negotiate project labor agreements, community benefits agreements and collective bargaining agreements with the local building trades council and other interested parties.

2.6 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 Emeryville and any other restrictions on exercising the powers of the Authority that may be adopted by the Board.

2.7 Compliance with Local Zoning and Building Laws. Notwithstanding any other provisions of this Agreement or state law, 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").

2.8 Compliance with the Brown Act. The Authority and its officers and employees shall comply with the provisions of the Ralph M. Brown Act, Government Code Section 54950 *et seq.*

2.9 Compliance with the Political Reform Act and Government Code Section 1090. The Authority and its officers and employees shall comply with the Political Reform Act (Government Code Section 81000 *et seq.*) and Government Code Section 1090 *et seq.*, and shall adopt a Conflict of Interest Code pursuant to Government Code Section 87300. The Board of

Directors may adopt additional conflict of interest regulations in the Operating Rules and Regulations.

ARTICLE 3
AUTHORITY PARTICIPATION

3.1 Addition of Parties. Subject to Section 2.2, relating to certain rights of Initial Participants, other incorporated municipalities and counties may become Parties upon (a) the adoption of a resolution by the governing body of such incorporated municipality or county requesting that the incorporated municipality or county, as the case may be, become a member of the Authority, (b) the adoption by an affirmative vote of a majority of all Directors of the entire Board satisfying the requirements described in Section 4.12, of a resolution authorizing membership of the additional incorporated municipality or county, specifying the membership payment, if any, to be made by the additional incorporated municipality or county to reflect its pro rata share of organizational, planning and other pre-existing expenditures, and describing additional conditions, if any, associated with membership, (c) the adoption of an ordinance required by Public Utilities Code Section 366.2(c)(12) and execution of this Agreement and other necessary program agreements by the incorporated municipality or county, (d) payment of the membership fee, if any, and (e) satisfaction of any conditions established by the Board.

3.2 Continuing Participation. The Parties acknowledge that membership in the Authority may change by the addition and/or withdrawal or termination of Parties. The Parties agree to participate with such other Parties as may later be added, as described in Section 3.1. The Parties also agree that the withdrawal or termination of a Party shall not affect this Agreement or the remaining Parties' continuing obligations under this Agreement.

ARTICLE 4
GOVERNANCE AND INTERNAL ORGANIZATION

4.1 Board of Directors. The governing body of the Authority shall be a Board of Directors ("Board") consisting of one director for each Party appointed in accordance with Section 4.2.

4.2 Appointment of Directors. The Directors shall be appointed as follows:

4.2.1 The governing body of each Party shall appoint and designate in writing one regular Director who shall be authorized to act for and on behalf of the Party on matters within the powers of the Authority. The governing body of each Party also shall appoint and designate in writing one alternate Director who may vote on matters when the regular Director is absent from a Board meeting. The person appointed and designated as the regular Director shall be a member of the governing body of the Party at the time of appointment but may continue to serve as a Director following his/her term as a member of the Party's governing body until a new Director is appointed pursuant to the timing in Section 4.3. The person appointed and designated as the alternate Director shall also be a member of the governing body of a Party and the alternate may continue to serve

as an alternate following his/her term as a member of a Party's governing body until a new alternate is appointed pursuant to the timing in Section 4.3.

- 4.2.2 The Board shall also include one non-voting ex officio member as defined in Section 1.1.13 ("Ex Officio Board Member"). The Chair of the Community Advisory Committee, as described in Section 4.9 below, shall serve as the Ex Officio Board Member. The Vice Chair of the Community Advisory Committee shall serve as an alternate Ex Officio Board Member when the regular Ex Officio Board Member is absent from a Board meeting.
- 4.2.3 The Operating Rules and Regulations, to be developed and approved by the Board in accordance with Section 2.5.12 may include rules regarding Directors, such as meeting attendance requirements. No Party shall be deprived of its right to seat a Director on the Board.

4.3 Term of Office. Each regular and alternate Director shall serve at the pleasure of the governing body of the Party that the Director represents and may be removed as Director by such governing body at the time. If at any time a vacancy occurs on the Board because a Director is no longer a member of a Party's governing body, the Party shall appoint a replacement to fill the position of the previous Director in accordance with the provisions of Section 4.2.1 within ninety (90) days of the date that such Director is no longer a member of a Party's governing body or for any other reason that such position becomes vacant.

4.4 Quorum. A majority of the Directors of the entire Board shall constitute a quorum, except that less than a quorum may adjourn a meeting from time to time in accordance with law.

4.5 Powers and Function of the Board. The Board shall conduct or authorize to be conducted all business and activities of the Authority, consistent with this Agreement, the Authority Documents, the Operating Rules and Regulations, and applicable law. Board approval shall be required for any of the following actions, which are defined as "Essential Functions":

- 4.5.1 The issuance of bonds or any other financing even if program revenues are expected to pay for such financing.
- 4.5.2 The hiring of a Chief Executive Officer and General Counsel.
- 4.5.3 The appointment or removal of an officer.
- 4.5.4 The adoption of the Annual Budget.
- 4.5.5 The adoption of an ordinance.
- 4.5.6 The initiation of 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 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 agency, without approval of the Board. The Board shall adopt Operating Rules and Regulations governing the Chief Executive Officer and General Counsel's exercise of authority under this Section 4.5.6.

4.5.7 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.

4.5.8 Termination of the CCA Program.

4.6 **Executive Committee.** The Board shall establish an Executive Committee consisting of a smaller number of Directors. The Board may delegate to the Executive Committee such authority as the Board might otherwise exercise, subject to limitations placed on the Board's authority to delegate certain Essential Functions, as described in Section 4.5 and the Operating Rules and Regulations. The Board may not delegate to the Executive Committee or any other committee its authority under Section 2.5.12 to adopt and amend the Operating Rules and Regulations or its Essential Functions listed in Section 4.5. After the Executive Committee meets or otherwise takes action, it shall, as soon as practicable, make a report of its activities at a meeting of the Board.

4.7 **Director Compensation.** Directors shall receive a stipend of \$100 per meeting, as adjusted to account for inflation, as provided for in the Authority's Operating Rules and Regulations.

4.8 **Commissions, Boards and Committees.** The Board may establish any advisory commissions, boards and committees as the Board deems appropriate to assist the Board in carrying out its functions and implementing the CCA Program, other energy programs and the provisions of this Agreement. The Board may establish rules, regulations, policies, bylaws or procedures to govern any such commissions, boards, or committees and shall determine whether members shall be compensated or entitled to reimbursement for expenses.

4.9 **Community Advisory Committee.** The Board shall establish a Community Advisory Committee consisting of nine members and three alternates, none of whom may be voting members of the Board. One alternate from the pool of three alternates may take the place of a Community Advisory Member when a Community Advisory Committee member cannot attend a meeting. The Community Advisory Committee member that is unable to attend a meeting must notify the alternates of their inability to attend and obtain confirmation that one of the Alternates can attend the Community Advisory Committee meeting in that member's place. The function of the Community Advisory Committee shall be to advise the Board of Directors on all subjects related to the operation of the CCA Program as set forth in a work plan adopted by the Board of Directors from time to time, with the exception of personnel and litigation decisions. The Community Advisory Committee is advisory only, and shall not have decision making authority, or receive any delegation of authority from the Board of Directors. The Board shall publicize the opportunity to serve on the Community Advisory Committee and shall

appoint members of the Community Advisory Committee and Alternates from those individuals expressing interest in serving, and who represent a diverse cross-section of interests, skill sets and geographic regions. Members of the Community Advisory Committee shall serve staggered four-years terms (the first term of three of the members shall be two years, and four years thereafter), which may be renewed. A member or Alternate of the Community Advisory Committee may be removed by the Board of Directors by majority vote. The Board of Directors shall determine whether the Community Advisory Committee members will receive a stipend or be entitled to reimbursement of expenses.

4.10 Chief Executive Officer. The Board of Directors shall appoint a Chief Executive Officer for the Authority, who shall be responsible for the day-to-day operation and management of the Authority and the CCA Program. The Chief Executive Officer 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 expenditure is authorized in the Authority's approved budget, except the powers specifically set forth in Section 4.5 or those powers which by law must be exercised by the Board of Directors. The Board of Directors shall provide procedures and guidelines for the Chief Executive Officer exercising the powers of the Authority in the Operating Rules and Regulations.

4.11 General Counsel. The Board of Directors shall appoint a General Counsel for the Authority, who shall be responsible for providing legal advice to the Board of Directors and overseeing all legal work for the Authority.

4.12 Board Voting.

4.12.1 Percentage Vote. Except when a supermajority vote is expressly required by this Agreement or the Operating Rules and Regulations, action of the Board on all matters shall require an affirmative vote of a majority of all Directors on the entire Board (a "Percentage Vote" as defined in Section 1.1.20). A supermajority vote is required by this Agreement for the matters addressed by Section 8.4. When a supermajority vote is required by this Agreement or the Operating Rules and Regulations, action of the Board shall require an affirmative Percentage Vote of the specified supermajority of all Directors on the entire Board. No action can be taken by the Board without an affirmative Percentage Vote. Notwithstanding the foregoing, in the event of a tie in the Percentage Vote, an action may be approved by an affirmative "Voting Shares Vote," as defined in Section 1.1.22, if three or more Directors immediately request such vote.

4.12.2 Voting Shares Vote. In addition to and immediately after an affirmative percentage vote, three or more Directors may request that, a vote of the voting shares shall be held (a "Voting Shares Vote" as defined in Section 1.1.22). To approve an action by a Voting Shares Vote, the corresponding voting shares (as defined in Section 1.1.23 and Exhibit C) of all Directors voting in the affirmative shall exceed 50% of the voting share of all Directors on the entire Board, or such other higher voting shares percentage expressly required by this Agreement or the Operating Rules

and Regulations. In the event that any one Director has a voting share that equals or exceeds that which is necessary to disapprove the matter being voted on by the Board, at least one other Director shall be required to vote in the negative in order to disapprove such matter. When a voting shares vote is held, action by the Board requires both an affirmative Percentage Vote and an affirmative Voting Shares Vote. Notwithstanding the foregoing, in the event of a tie in the Percentage Vote, an action may be approved on an affirmative Voting Shares Vote. When a supermajority vote is required by this Agreement or the Operating Rules and Regulations, the supermajority vote is subject to the Voting Share Vote provisions of this Section 4.12.2, and the specified supermajority of all Voting Shares is required for approval of the action, if the provision of this Section 4.12.2 are triggered.

4.13 Meetings and Special Meetings of the Board. The Board shall hold at least four regular meetings per year, but the Board may provide for the holding of regular meetings at more frequent intervals. 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 Board may be called in accordance with the provisions of California Government Code Section 54956 and 54956.5. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law.

4.14 Officers.

4.14.1 Chair and Vice Chair. Prior to the end of the fiscal year, the Directors shall elect, from among themselves, a Chair, who shall be the presiding officer of all Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The newly elected Chair and Vice Chair shall commence serving in those capacities on July 1, except that no separate election shall be required for Fiscal Year 2018-2019 and the Chair and Vice Chair elected in 2018 shall continue to serve until the end of the 2018-2019 Fiscal Year. The Chair and Vice Chair shall hold office for one year and serve no more than two consecutive terms, however, the total number of terms a Director may serve as Chair or Vice Chair is not limited. The office of either the Chair or Vice Chair shall be declared vacant and the Board shall make a new selection if: (a) the person serving dies, resigns, or ceases to be a member of the governing body of a Party that person represents, except if the person is continuing to serve on the Board after that person no longer serves on the governing body in conformance with section 4.2.1; (b) the Party that the person represents removes the person as its representative on the Board, or (c) the Party that the person represents withdraws from the Authority pursuant to the provisions of this Agreement.

4.14.2 Secretary. The 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 the Board and all other official records of the Authority.

4.14.3 Treasurer and Auditor. The 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. The same person may not simultaneously hold both the office of Treasurer and the office of the Auditor of the Authority. Unless otherwise exempted from such requirement, the Authority shall cause an independent audit to be made annually by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall act as the depository of the Authority and have custody of all the money of the Authority, from whatever source, and as such, shall have all of the duties and responsibilities specified in Section 6505.5 of the Act. The Board may require the Treasurer and/or Auditor to file with the Authority an official bond in an amount to be fixed by the Board, and if so requested, the Authority shall pay the cost of premiums associated with the bond. The Treasurer shall report directly to the 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.

4.15 Administrative Services Provider. The Board 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. The 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.

4.16 Operational Audit. The Authority shall commission an independent agent to conduct and deliver at a public meeting of the Board an evaluation of the performance of the CCA Program relative to goals for renewable energy and carbon reductions. The Authority shall approve a budget for such evaluation and shall hire a firm or individual that has no other direct or indirect business relationship with the Authority. The evaluation shall be conducted at least once every two years.

ARTICLE 5

IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS

5.1 Implementation of the CCA Program.

5.1.1 Enabling Ordinance. Prior to the execution of this Agreement, each Party shall 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.

5.1.2 Implementation Plan. The Authority 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 Board in the manner provided by Section 4.12.

5.1.3 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.

5.2 Other Authority Documents. The Parties acknowledge and agree that the operations of the Authority will be implemented through various documents duly adopted by the Board through Board resolution or minute action, including but not necessarily limited to the Operating Rules and Regulations, the annual budget, and specified plans and policies defined as the Authority Documents by this Agreement. The Parties agree to abide by and comply with the terms and conditions of all such Authority Documents that may be adopted by the Board, subject to the Parties' right to withdraw from the Authority as described in Article 7.

5.3 Integrated Resource Plan. The Authority shall cause to be prepared an Integrated Resource Plan in accordance with CPUC regulations that will ensure the long-term development and administration of a variety of energy programs that promote local renewable resources, conservation, demand response, and energy efficiency, while maintaining compliance with the State Renewable Portfolio standard and customer rate competitiveness. The Authority shall prioritize the development of energy projects in Alameda and adjacent counties. Principal aspects of its planned operations shall be in a Business Plan as outlined in Section 5.4 of this Agreement.

5.4 Business Plan. The Authority shall cause to be prepared a Business Plan, which will include a roadmap for the development, procurement, and integration of local renewable energy resources as outlined in Section 5.3 of this Agreement. The Business Plan shall include a description of how the CCA Program will contribute to fostering local economic benefits, such as job creation and community energy programs. The Business Plan shall identify opportunities for local power development and how the CCA Program can achieve the goals outlined in Recitals 3 and 6 of this Agreement. The Business Plan shall include specific language detailing employment and labor standards that relate to the execution of the CCA Program as referenced in this Agreement. The Business Plan shall identify clear and transparent marketing practices to be followed by the CCA Program, including the identification of the sources of its electricity and explanation of the various types of electricity procured by the Authority. The Business Plan shall cover the first five (5) years of the operation of the CCA Program. Progress on the implementation of the Business Plan shall be subject to annual public review.

5.5 Labor Organization Neutrality. The Authority shall remain neutral in the event its employees, and the employees of its subcontractors, if any, wish to unionize.

5.6 Renewable Portfolio Standards. The Authority shall provide its customers renewable energy primarily from Category 1 eligible renewable resources, as defined under the California RPS and consistent with the goals of the CCA Program. The Authority shall not procure energy from Category 3 eligible renewable resources (unbundled Renewable Energy Credits or RECs) exceeding 50% of the State law requirements, to achieve its renewable portfolio goals. However, for Category 3 RECs associated with generation facilities located within its service jurisdiction, the limitation set forth in the preceding sentence shall not apply.

ARTICLE 6 **FINANCIAL PROVISIONS**

6.1 Fiscal Year. The Authority's fiscal year shall be 12 months commencing July 1 and ending June 30. The fiscal year may be changed by Board resolution.

6.2 Depository.

6.2.1 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.

6.2.2 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.

6.2.3 All expenditures shall be made in accordance with the approved budget and upon the approval of any officer so authorized by the Board 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.

6.3 Budget and Recovery Costs.

6.3.1 Budget. The initial budget shall be approved by the Board. The Board may revise the budget from time to time through an Authority Document as may be reasonably necessary to address contingencies and unexpected expenses. All subsequent budgets of the Authority shall be prepared and approved by the Board in accordance with the Operating Rules and Regulations.

6.3.2 Funding of Initial Costs. The County shall fund the Initial Costs of establishing and implementing the CCA Program. In the event that the CCA Program becomes operational, these Initial Costs paid by the County and any specified interest shall be included in the customer charges for

electric services to the extent permitted by law, and the County shall be reimbursed from the payment of such charges by customers of the Authority. 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 shall not be entitled to any reimbursement of the Initial Costs.

- 6.3.4 Additional Contributions and Advances.** Pursuant to Government Code Section 6504, the Parties may in their sole discretion make financial contributions, loans or advances to the Authority for the purposes of the Authority set forth in this Agreement. The repayment of such contributions, loans or advances will be on the written terms agreed to by the Party making the contribution, loan or advance and the Authority.

ARTICLE 7

WITHDRAWAL AND TERMINATION

7.1 Withdrawal.

- 7.1.1 General Right to Withdraw.** A Party may withdraw its membership in the Authority, effective as of the beginning of the Authority's fiscal year, by giving no less than 180 days 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.
- 7.1.2 Withdrawal Following Amendment.** Notwithstanding Section 7.1.1, a Party may withdraw its membership in the Authority following an amendment to this Agreement provided that the requirements of this Section 7.1.2 are strictly followed. A Party shall be deemed to have withdrawn its membership in the Authority effective 180 days after the Board approves an amendment to this Agreement if the Director representing such Party has provided notice to the other Directors immediately preceding the Board's vote of the Party's intention to withdraw its membership in the Authority should the amendment be approved by the Board.
- 7.1.3 The Right to Withdraw Prior to Program Launch.** After receiving bids from power suppliers for the CCA Program, the Authority must provide to the Parties a report from the electrical utility consultant retained by the Authority comparing the Authority's total estimated electrical rates, the estimated greenhouse gas emissions rate and the amount of estimated renewable energy to be used with that of the incumbent utility. Within 30 days after receiving this report, through its City Manager or a person expressly authorized by the Party, any Party may immediately withdraw its membership in the Authority by providing written notice of withdrawal to the Authority if the report determines that any one of the following

conditions exists: (1) the Authority is unable to provide total electrical rates, as part of its baseline offering to customers, that are equal to or lower than the incumbent utility, (2) the Authority is unable to provide electricity in a manner that has a lower greenhouse gas emissions rate than the incumbent utility, or (3) the Authority will use less qualified renewable energy than the incumbent utility. Any Party who withdraws from the Authority pursuant to this Section 7.1.3 shall not be entitled to any refund of the Initial Costs it has paid to the Authority prior to the date of withdrawal unless the Authority is later terminated pursuant to Section 7.3. In such event, any Initial Costs not expended by the Authority shall be returned to all Parties, including any Party that has withdrawn pursuant to this section, in proportion to the contribution that each made. Notwithstanding anything to the contrary in this Agreement, any Party who withdraws pursuant to this section shall not be responsible for any liabilities or obligations of the Authority after the date of withdrawal, including without limitation any liability arising from power purchase agreements entered into by the Authority.

7.2 Continuing Liability After Withdrawal; Further Assurances; Refund. A Party that withdraws its membership in the Authority under either Section 7.1.1 or 7.1.2 shall be responsible for paying its fair share of costs incurred by the Authority resulting from the Party's withdrawal, including costs from the resale of power contracts by the Authority to serve the Party's load and any similar costs directly attributable to the Party's withdrawal, such costs being limited to those contracts executed while the withdrawing Party was a member, and administrative costs associated thereto. The Parties agree that such costs shall not constitute a debt of the withdrawing Party, accruing interest, or having a maturity date. 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, to cover the Party's costs described above. Any amount of the Party's funds held by the Authority for the benefit of the Party that are not required to pay the Party's costs described above shall be returned to the Party. The 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 membership in the Authority. A withdrawing party has the right to continue to participate in Board discussions and decisions affecting customers of the CCA Program that reside or do business within the jurisdiction of the Party until the withdrawal's effective date.

7.3 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 membership in the Authority, and thus terminate this Agreement with respect to such withdrawing Party, as described in Section 7.1.

7.4 Disposition of Property upon Termination of Authority. Upon termination of this Agreement as to all Parties, 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 Authority Documents, shall be returned to the then-existing Parties in proportion to the contributions made by each.

ARTICLE 8
MISCELLANEOUS PROVISIONS

8.1 Dispute Resolution. The Parties and the Authority shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. Before exercising any remedy provided by law, a Party or the Parties and the Authority shall engage in nonbinding mediation in the manner agreed upon by the Party or Parties and the Authority. The Parties agree that each Party may specifically enforce this section 8.1. In the event that nonbinding mediation is not initiated or does not result in the settlement of a dispute within 120 days after the demand for mediation is made, any Party and the Authority may pursue any remedies provided by law.

8.2 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 Section 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.

8.3 Indemnification of Parties. The Authority shall acquire such insurance coverage as the Board deems necessary to protect the interests of the Authority, the Parties and the public. Such insurance coverage shall name the Parties and their respective Board or Council members, officers, agents and employees as additional insureds. The Authority shall defend, indemnify and hold harmless the Parties and each of their respective Board or Council members, 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.

8.4 Amendment of this Agreement. This Agreement may be amended in writing by a two-thirds affirmative vote of the entire Board satisfying the requirements described in Section 4.12. Except that, any amendment to the voting provisions in Section 4.12 may only be made by a three-quarters affirmative vote of the entire Board. The Authority shall provide written notice to the Parties at least 30 days in advance of any proposed amendment being considered by the Board. If the proposed amendment is adopted by the Board, the Authority shall provide prompt written notice to all Parties of the effective date of such amendment along with a copy of the amendment.

8.5 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 8.5 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 8.5 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.

8.6 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.

8.7 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.

8.8 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.

8.9 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 72 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. In addition, a duplicate copy of all notices provided pursuant to this section shall be provided to the Director and alternate Director for each Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties. All notices required hereunder shall be delivered to:

The County of Alameda

Director, Community Development Agency
224 West Winton Ave.
Hayward, CA 94612

With a copy to:

Office of the County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612

if to [PARTY No. ____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

if to [PARTY No. ____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: _____

Name: _____

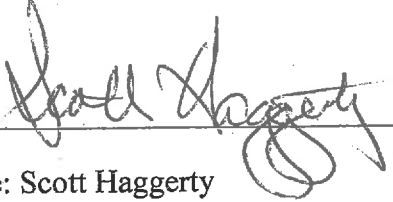
Title: _____

Date: _____

Party: _____

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: 

Name: Scott Haggerty

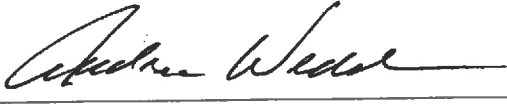
Title: Board President

Date: January 4, 2017

Party: County of Alameda

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: 

Andrea L. Weddle
Chief Assistant County Counsel

224 West Winton Ave.
Hayward, CA 94612

With a copy to:

Office of the County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612

if to [PARTY No. ____]

Office of the City Clerk

Eileen Harrington, Deputy
Eileen Harrington 12/2/16

Office of the City Manager/Administrator

Delo
Delo Crumpley

Office of the City Attorney

Craig Labadie
Craig Labadie

if to [PARTY No. ____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: *D. Williams-Ridley*

Name: *Dee Williams-Ridley*

Title: *City Manager*

Date: *December 1, 2016*

Party: *City of Berkeley*

APPROVED AS TO FORM

By *Michael Woo*
CITY ATTORNEY FOR THE
CITY OF BERKELEY

Registered by:

Ann-Monica Hagan
City Auditor

ATTEST for the City of Berkeley

Wendy Spurr
City Clerk

With a copy to:

Office of the County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612

if to [PARTY No. ____]

City of Dublin
City Manager
100 Civic Plaza
Dublin, CA 94568

Meyers Nave
City Attorney
555 12th Street, Suite 1500
Oakland, CA 94607

if to [PARTY No. ____]


Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: 

Christopher L. Foss, City Manager
City of Dublin

Date: 12/1/10

Party: _____

224 West Winton Ave.
Hayward, CA 94612

With a copy to:

Office of the County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612

if to: City of Emeryville

Office of the City Clerk
1333 Park Avenue
Emeryville, CA 94608

Office of the City Manager
1333 Park Avenue
Emeryville, CA 94608

Office of the City Attorney
1333 Park Avenue
Emeryville, CA 94608

if to [PARTY No. _____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: Carolyn Lehr
Name: Carolyn Lehr
Title: City Manager
Date: 12-1-16
Party: City of Emeryville

APPROVED AS TO FORM:

Michael A. Guina
Michael A. Guina, City Attorney

224 West Winton Ave.
Hayward, CA 94612

With a copy to:

Office of the County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612

if to [PARTY No. _____]

City of Fremont

Office of the City Clerk
3300 Capitol Ave., Building A
Fremont, CA 94538

Office of the City Manager/Administrator
3300 Capitol Ave., Building A
Fremont, CA 94538

Office of the City Attorney
3300 Capitol Ave., Building A
Fremont, CA 94538

if to [PARTY No. _____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: 

Name: **Jessica von Borck**

Title: **Assistant City Manager**

Date: **12-1-16**

Party: _____

APPROVED AS TO FORM:



Debra S. Margolis
Assistant City Attorney

The County of Alameda

Director, Community Development Agency
224 West Winton Ave.
Hayward, CA 94612

With a copy to:

Office of the County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612

City of Hayward

Office of the City Manager
City of Hayward
777 B Street
Hayward, CA 94541

With a copy to:

Office of the City Attorney
City of Hayward
777 B Street
Hayward, CA 94541

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

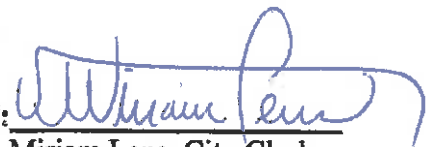
CITY OF HAYWARD, A Municipal Corporation

Date of Approval: 12/16/2016



Kelly McAdoo, City Manager

ATTEST:



Miriam Lens, City Clerk

APPROVED AS TO FORM



Michael Lawson, City Attorney

224 West Winton Ave.
Hayward, CA 94612

With a copy to:

Office of the County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612

if to City of Livermore

City Clerk's Office
1052 South Livermore Avenue
Livermore, CA 94550

With a copy to:

Public Works Department
Attn: Public Works Manager
3500 Robertson Park Road
Livermore, CA 94550

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: Marc Roberts

Name: Marc Roberts

Title: City Manager

Date: 1/4/2017

Party: City of Livermore

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to be a stylized 'J' or similar character, written over a horizontal line.

224 West Winton Ave.
Hayward, CA 94612

With a copy to:

Office of the County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612

if to [PARTY No. ____]

Office of the City Clerk
1 Frank H. O'Connell Plaza
Oakland, CA 94612

Office of the City Manager/Administrator
1 Frank H. O'Connell Plaza
Oakland, CA 94612

Office of the City Attorney

if to [PARTY No. ____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: *CL Cappio for SBL*

Name: CLAUDIA CAPPIO

Title: ASST CITY ADMINISTRATOR

Date: 12/07/16

Party: CITY OF OAKLAND

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: Jeff Wieler
Name: Jeffrey Wieler
Title: Mayor
Date: 12/19/16
Party: City of Piedmont

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.

8.9 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 72 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. In addition, a duplicate copy of all notices provided pursuant to this section shall be provided to the Director and alternate Director for each Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties. All notices required hereunder shall be delivered to:

The County of Alameda

Director, Community Development Agency
224 West Winton Ave.
Hayward, CA 94612

With a copy to:

Office of the County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612

if to the City of San Leandro

Office of the City Clerk
835 East 14th Street
San Leandro, CA 94577

Office of the City Manager/Administrator
835 East 14th Street
San Leandro, CA 94577
Office of the City Attorney
835 East 14th Street
San Leandro, CA 94577

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

CITY OF SAN LEANDRO



Chris Zapata, City Manager

Attest:



Tamika Greenwood, City Clerk

Approved as to Form:



Richard D. Pio Roda, City Attorney

224 West Winton Ave.
Hayward, CA 94612

With a copy to:

Office of the County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612

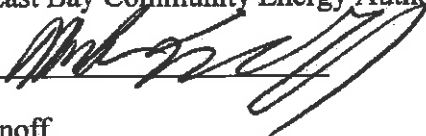
if to The City of Union City [PARTY No. 12]

Office of the City Clerk

Anna M. Brown, City Clerk
34009 Alvarado-Niles Road
Union City, CA 94587

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By:  _____

Name: Mark Evanoff _____

Title: Deputy City Manager _____

Date: December 5, 2016 _____

Party: The City of Union City _____

East Bay Community Energy (EBCE)
1999 Harrison Street, Suite 800
Oakland CA 94612

if to Newark

Office of the City Clerk
37101 Newark Boulevard
Newark, CA 94560

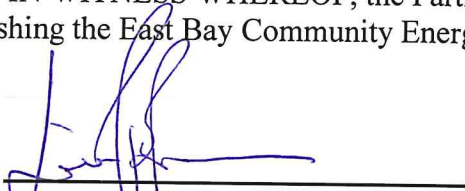
Office of the City Manager/Administrator
37101 Newark Boulevard
Newark, CA 94560

Office of the City Attorney
37101 Newark Boulevard
Newark, CA 94560

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By:



Name: David J. Benoun

Title: City Manager

Date: November 18, 2019

Party: CITY OF NEWARK

ARTICLE 9
SIGNATURE


IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

CITY OF PLEASANTON, a municipal corporation

Date: November 27, 2019



Nelson Fialho, City Manager

ATTEST: 

Karen Diaz, City Clerk


APPROVED AS TO FORM:



for Daniel G. Sodergren, City Attorney

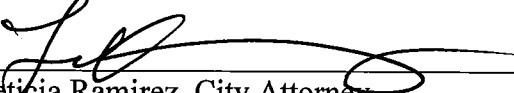
ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: 
Name: Robert Rickman
Title: Mayor
Date: 11-7-19

Party: City of Tracy

APPROVED AS TO FORM


Leticia Ramirez, City Attorney

ATTEST



Adrienne Richardson, City Clerk

EXHIBIT A

-LIST OF THE PARTIES

This Exhibit A is effective as of December 14, 2019.

County of Alameda

City of Albany

City of Berkeley

City of Dublin

City of Emeryville

City of Fremont

City of Hayward

City of Livermore

City of Newark

City of Oakland

City of Piedmont

City of Pleasanton

City of San Leandro

City of Tracy

City of Union City

EXHIBIT B**ANNUAL ENERGY USE**

This Exhibit B is effective as of December 14, 2019.

Party	kWh (2018*)
Albany	63,772,461
Berkeley	508,448,567
Dublin	297,210,239
Emeryville	197,077,013
Fremont	1,665,481,673
Hayward	984,424,723
Livermore	509,943,277
Newark**	419,357,962
Oakland	1,962,783,117
Piedmont	30,163,670
Pleasanton	520,214,314
San Leandro	556,074,739
Tracy	527,997,761
Unincorporated County	564,393,280
Union City	387,369,206
<hr/>	
Total	9,194,712,002

*All data provided by PG&E

**2017

EXHIBIT C
VOTING SHARES

This Exhibit C is effective as of December 14, 2019.

Party	kWh (2018*)	Voting Shares Section 4.12.2
Albany	63,772,461	0.7%
Berkeley	508,448,567	5.5%
Dublin	297,210,239	3.2%
Emeryville	197,077,013	2.1%
Fremont	1,665,481,673	18.1%
Hayward	984,424,723	10.7%
Livermore	509,943,277	5.5%
Newark**	419,357,962	4.6%
Oakland	1,962,783,117	21.3%
Piedmont	30,163,670	0.3%
Pleasanton	520,214,314	5.7%
San Leandro	556,074,739	6.0%
Tracy	527,997,761	5.7%
Unincorporated County	564,393,280	6.1%
Union City	387,369,206	4.2%
Total	9,194,712,002	100%

*All data provided by PG&E

**2017

EXHIBIT A
LIST OF THE PARTIES

This Exhibit A is effective as of [Month] [Day], 2022.

County of Alameda

City of Albany

City of Berkeley

City of Dublin

City of Emeryville

City of Fremont

City of Hayward

City of Livermore

City of Newark

City of Oakland

City of Piedmont

City of Pleasanton

City of San Leandro

City of Stockton

City of Tracy

City of Union City

EXHIBIT B
ANNUAL ENERGY USE

This Exhibit B is effective as of [Month] [Day], 2022.

Party	kWh (2021)
Albany	51,776,870
Berkeley	370,191,096
Dublin	254,391,482
Emeryville	170,415,886
Fremont	1,152,160,067
Hayward	685,960,209
Livermore	441,369,886
Newark	263,309,620
Oakland	1,749,739,631
Piedmont	29,230,795
Pleasanton	405,288,495
San Leandro	448,938,229
Stockton	1,388,481,371
Tracy	434,861,665
Unincorporated	471,391,155
Union City	269,516,289
Total	8,587,022,746

All data provided by PG&E

EXHIBIT C
VOTING SHARES

This Exhibit C is effective as of [Month] [Day], 2022.

Party	kWh (2021)	Voting Shares Section 4.12.2
Albany	51,776,870	0.6%
Berkeley	370,191,096	4.3%
Dublin	254,391,482	3.0%
Emeryville	170,415,886	2.0%
Fremont	1,152,160,067	13.4%
Hayward	685,960,209	8.0%
Livermore	441,369,886	5.1%
Newark	263,309,620	3.1%
Oakland	1,749,739,631	20.4%
Piedmont	29,230,795	0.3%
Pleasanton	405,288,495	4.7%
San Leandro	448,938,229	5.2%
Stockton	1,388,481,371	16.2%
Tracy	434,861,665	5.1%
Unincorporated	471,391,155	5.5%
Union City	269,516,289	3.1%
Total	8,587,022,746	100%

All data provided by PG&E

RESOLUTION NO. __

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING EBCE STAFF TO UPDATE EBCE'S IMPLEMENTATION PLAN TO REFLECT THE INCLUSION OF A NEW MEMBER JURISDICTION AND SUBMIT THE UPDATED PLAN TO THE CPUC

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

WHEREAS, The East Bay Community Energy Authority ("EBCE") was formed on December 1, 2016, under the Joint Exercise of Power Act, California Government Code sections 6500 *et seq.*, among the County of Alameda, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs in all of the member jurisdictions.

WHEREAS, on November 20, 2019, EBCE's Board of Directors unanimously authorized the cities of Tracy, Pleasanton, and Newark to become new parties to the Agreement with EBCE service beginning in those jurisdictions in April 2021; and

WHEREAS, on December 20, 2019, EBCE submitted an updated "Implementation Plan" to the CPUC reflecting the membership of the cities of Tracy, Pleasanton, and Newark to the Agreement and EBCE service area; and

WHEREAS, the Board of Directors has approved Resolution XX to authorize the City of Stockton to become a member of EBCE, with enrollments expected to begin in 2024;

WHEREAS, on February 8, 2018, the California Public Utilities Commission ("CPUC") passed Resolution E-4907, which requires a one year waiting period for jurisdictions intending to form or join a community choice aggregation ("CCA") program, like EBCE;

WHEREAS, in order to begin enrolling electricity customers in Stockton by 2024, EBCE must submit to the CPUC an updated Implementation Plan and Statement of Intent ("Implementation Plan") reflecting the inclusion of this new member jurisdiction before the end of the 2022 calendar year.

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

Section 1. The Board hereby authorizes EBCE staff to update EBCE's Implementation Plan, reflecting the membership of the City of Stockton.

Section 2. The Board hereby directs staff to submit the updated Implementation Plan to the CPUC for certification as soon as reasonably feasible, before December 31, 2022.

ADOPTED AND APPROVED this 21st day of September, 2022.

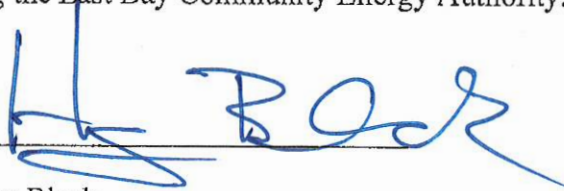
Dianne Martinez, Chair

ATTEST:

Adrian Bankhead, Secretary

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: 

Name: Harry Black

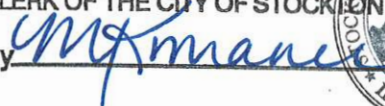
Title: City Manager

Date: 9/16/22

Party: City of Stockton

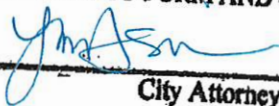
ATTEST:

CLERK OF THE CITY OF STOCKTON

By: 

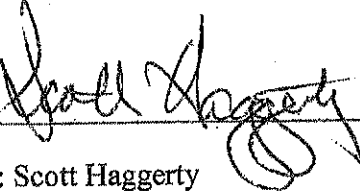


APPROVED AS TO FORM AND CONTENT

By: 
City Attorney

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: 

Name: Scott Haggerty


Title: Board President

Date: January 4, 2017

Party: County of Alameda

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: 

Andrea L. Weddle
Chief Assistant County Counsel

224 West Winton Ave.
Hayward, CA 94612

With a copy to:

Office of the County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612

if to [PARTY No. ____]

Office of the City Clerk

Eileen Harrington, Deputy
Eileen Harrington 12/2/16

Office of the City Manager/Administrator

Enelope Crumpley

Office of the City Attorney

Craig Labadie
Craig Labadie

if to [PARTY No. ____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: *D. Williams-Ridley*
Name: *Dee Williams Ridley*
Title: *City Manager*
Date: *December 1, 2016*
Party: *City of Berkeley*

APPROVED AS TO FORM

By *Michael Woo*
CITY ATTORNEY FOR THE
CITY OF BERKELEY

Registered by:

Ann-Monica Hogn
City Auditor

ATTEST for the City of Berkeley

Monte Serrano
City Clerk

With a copy to:

**Office of the County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612**

if to [PARTY No. ____]

**City of Dublin
City Manager
100 Civic Plaza
Dublin, CA 94568**

**Meyers Nave
City Attorney
555 12th Street, Suite 1500
Oakland, CA 94607**

if to [PARTY No. ____]

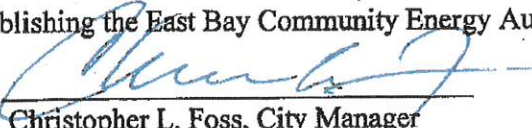
Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: 

Christopher L. Foss, City Manager
City of Dublin

Date: 12/1/10

Party: _____