

JOINT EXERCISE OF POWERS AGREEMENT
RELATING TO AND CREATING THE

[INSERT AGENCY NAME]

AUTHORITY OF

[INSERT MEMBER PARTIES]

This Joint Exercise of Powers Agreement, effective on the date determined by Section 2.1, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Sections 6500 et seq.) of the California Government Code relating to the joint exercise of powers among the Parties set forth in Exhibit B, and establishes the [INSERT AGENCY NAME] Authority (“Authority”), is by and between the entities who become signatories to this Agreement (“Parties”), and relates to the joint exercise of powers among the signatories hereto.

RECITALS

WHEREAS, 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, and 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;

WHEREAS, the Parties desire to establish a separate public agency, known as the [INSERT AGENCY], 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;

WHEREAS, the Parties share various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and customers within their jurisdictions;

WHEREAS, the Initial Participants anticipate adopting an ordinance electing to implement through the Authority a Community Choice Aggregation (CCA) program pursuant to California Public Utilities Code Section 366.2, and the first priority of the Authority will be the consideration of those actions necessary to implement the CCA Program;

WHEREAS, the purposes for the Initial Participants entering into this Agreement include securing energy supply and services for customers in participating jurisdictions, addressing climate change by reducing energy and transportation related greenhouse gas emissions and fostering community resiliency, capital retention and local economic benefits through electrical rate price stability, the minimization of toxic gases, vehicle electrification, the development of local renewable, Distributed Energy Resources and microgrids, and the creation of local jobs;

WHEREAS, by establishing the Authority, the Parties seek to:

- (a) Create an agency that is financially sustainable, responsive to regional priorities, well managed, and overseen by both elected officials and members of the public.
- (b) Provide energy supplies and services in a manner that provides bill savings, especially to low-income households, and promotes public health in areas impacted by energy production;
- (c) Establish an energy portfolio that minimizes the use of unbundled renewable energy credits and prioritizes the use and development of local renewable and Distributed Energy Resources in

power planning, procurement and operations;

- (d) Provide electricity rates that are lower or competitive with those offered by Southern California Edison (SCE) for similar products, while maximizing the reduction of greenhouse gas intensity for the electricity supplied;
- (e) Offer differentiated energy options (e.g. 33% or 50% qualified renewable for default service, a 100% renewable content option in which customers may “opt-up” and voluntarily participate, et cetera), and rate options that support Distributed Energy Resources;
- (f) Demonstrate quantifiable economic benefits to the region (e.g. union and prevailing wage jobs, local workforce development, apprenticeship programs, local hire, new energy programs, and increased investments in local renewable and Distributed Energy Resources);
- (g) Deliver energy programs and projects using a stable, skilled workforce through such mechanisms as project labor agreements, community benefit agreements, collective bargaining agreements or comparable agreements, and other workforce programs that are cost effective and designed to both avoid work stoppages and ensure quality;
- (h) Promote customer and community ownership of local renewable and Distributed Energy Resources, spurring equitable economic development and increased resilience, especially in low income communities; and
- (i) Establish and regularly update an Integrated Resources Plan and initiate or participate in other planning processes as necessary to further the above policy objectives.

AGREEMENT

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

ARTICLE 1: DEFINITIONS AND EXHIBITS

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

1.2 Documents Included. This Agreement consists of this document and the following exhibits, all of which are hereby incorporated into this Agreement:

Exhibit A: Definitions

Exhibit B: List of the Parties

Exhibit C: Annual Customer Receipts and Voting Shares

Exhibit D: Signatories

ARTICLE 2: FORMATION OF THE AUTHORITY

2.1 Effective Date and Term. This Agreement shall become effective and the Authority shall exist as a separate public agency on [INSERT DATE], provided that this Agreement is executed on

Approved [insert date]

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 6, subject to the rights of the Parties to withdraw from the Authority.

2.2 Formation. Pursuant to the Act, the Parties hereby create a joint powers agency as of the Effective Date to be known as the [INSERT AGENCY NAME] Authority.

2.3 Separate Public Entity. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public agency separate from the Parties.

2.4 Purpose. The purpose of this Agreement is to establish an independent public agency in order to advance the goals enumerated in the Recitals. To further that purpose, the Parties intend:

- To lead, coordinate and integrate regional efforts that advance secure, sustainable, clean and affordable energy resources;
- To develop and implement long-term sustainable energy plans;
- To increase awareness of, and enhance access to, renewable and distributed energy resource opportunities available to the region;
- To add value to energy services offered by utilities, Community Choice Aggregations, and other entities serving the region;
- To keep key decision makers and stakeholders informed of policy, regulatory, and market changes that are likely to impact the region;
- To support research, development, demonstration, innovation, and commercialization of sustainable energy technologies by public and private entities operating in Parties' territories; and
- To develop regional capabilities to respond to energy emergencies and short-term disruptions in energy supply, infrastructure, or markets that could adversely affect residents and businesses.

Without limiting the generality of the foregoing, the Parties intend for this Agreement to be used as a contractual mechanism by which the Parties are authorized to participate in the CCA Program, as further described in Section 4.1, and to exercise all other powers necessary and incidental to accomplishing this purpose. The Parties intend that other agreements shall define the terms and conditions associated with the implementation of the CCA Program and any other energy programs approved by the Authority.

2.5 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;

2.5.2 to employ agents and employees;

2.5.3 to acquire, contract, manage, maintain, and operate any buildings, infrastructure, works, or improvements;

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; however, the Authority shall not exercise the power of eminent domain within the jurisdiction of a Party over its objection without first meeting and conferring in good faith.

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 Sections 53850 et seq. and authority under the Act; Pursuant to Sections 6508.1 of the Act, the debts, liabilities or obligations of the Authority shall not be debts, liabilities or obligations of the individual Parties unless the governing body of a Party agrees in writing to assume any of the debts, liabilities or obligations of the Authority. A Party who has not agreed to assume an Authority debt, liability or obligation shall not be responsible in any way for such debt, liability or obligation even if a majority of the Parties agree to assume the debt, liability or obligation of the Authority. Notwithstanding Section 7.4 of this Agreement, this Section 2.5.7 may not be amended unless such amendment is approved by the governing body of each Party.

2.5.8 to form subsidiary or independent corporations or entities if necessary, to carry out energy supply and other energy programs 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 aids 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 agreements relating to the provision of services necessary to plan, implement, operate and administer the CCA Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services; and

2.5.14 to permit additional Parties to enter into this Agreement after the Effective Date and to permit another entity authorized to be a community choice aggregator to designate the Authority to act as the community choice aggregator on its behalf.

2.6 Limitation on Powers. As required by Government Code Section 6509, the Authority shall exercise its powers and perform its duties is and shall be subject to the restrictions upon the manner in which a general law city which is a Party hereof could exercise such powers and perform such duties; and shall not be subject to any restriction applicable to the manner in which any other public agency could exercise such powers or perform such duties, whether such agency is a party to this Agreement or not.

2.7 Compliance with Local Zoning and Building Laws and CEQA. Unless state or federal law provides otherwise, any facilities, buildings or structures located, constructed, or

caused to be constructed by the Authority within the territory of the Authority shall comply with the General Plan, zoning and building laws of the local jurisdiction within which the facilities, buildings or structures are constructed and comply with the California Environmental Quality Act (“CEQA”).

ARTICLE 3: GOVERNANCE AND INTERNAL ORGANIZATION

3.1 Board of Directors. The governing body of the Authority shall be a Board of Directors (“Board”). The Board shall consist of 1 (one) director appointed by each Party that becomes a signatory to the Agreement (“Directors”). Each Director shall serve at the pleasure of the governing body of the Party who appointed such Director, and may be removed as Director by such governing body at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed to fill the position of the previous Director within 90 days of the date that such position becomes vacant. Directors must be members of the governing body of the Party. Each Party may appoint an alternate(s) to serve in the absence of its Director. Alternates must be either members of the governing body of the Party or a representative or agent appointed by the governing body of the Party.

The Board shall also include one non-voting ex officio member (“Ex Officio Board Member”). The Chair of the Community Advisory Committee, as described in Section 3.5 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.

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

3.3 Powers and Functions 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”:

3.3.1 The issuance of bonds or any other financing even if program revenues are expected to pay for such financing;

3.3.2 The hiring or termination of the Executive Director and General Counsel;

3.3.3 Any action delegated to the Board in this Agreement;

3.3.4 The adoption of an ordinance;

3.3.5 The initiation or resolution of claims and litigation where the Authority will be the defendant, plaintiff, petitioner, respondent, cross complainant or cross petitioner, or intervenor; provided, however, that Board may delegate the power to intervene in, become a party to, or file comments with respect to any proceeding pending at the California Public Utilities Commission, the Federal Energy Regulatory Commission, or any other administrative agency, on behalf of the Authority and without approval of the Board as long as such action is consistent with the adopted Operating Rules and Regulations.

3.3.6 The setting of rates for energy sold by the Authority and the setting of charges for any other category of service provided by the Authority;

3.3.7 Termination of the CCA Program.

3.4 Operating Rules and Regulations. The Board shall adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority (“Operating Rules and Regulations”). Rules regarding Directors, such as meeting attendance requirements, may be established, provided that no Party shall be deprived of its right to seat a Director on the Board.

3.5 Community Advisory Committee. The Board shall establish a Community Advisory Committee (“Committee”) consisting of seven members, none of whom may be Directors or Alternate Directors of the Board. The Board shall publicize the opportunity to serve on the Committee, and shall appoint members of the Committee from those individuals expressing interest in serving, and who represent a diverse cross-section of interests, skill sets and geographic regions. Members of the Committee shall serve staggered four-year terms, which may be renewed, provided that the first term of three of the members shall be two years, and four years thereafter. A member of the Committee may be removed by the Board by majority vote. The Board shall determine whether the Committee members will receive a stipend and/or be entitled to reimbursement for expenses.

3.5.1 Duties and Function. The function of the Committee shall be to provide public oversight over and to advise the Board, at the Committee’s discretion, on any and all subjects related to the operation of the Authority, including the CCA Program, with the exception of personnel and litigation decisions. The Committee is advisory only, and shall not have decision-making authority, or receive any delegation of authority from the Board. The Committee may request that the Board or Executive Director provide information reasonably necessary for such oversight, and may make recommendations with respect to the operations of the Authority to the Board. The Committee will be consulted over the course of preparing the Operational Audit under Section 3.14.

3.5.2 Chair and Vice-Chair. The Committee shall elect from among themselves, by majority vote of all nine members, a Chair, who shall be the presiding officer of all Committee meetings, and a Vice Chair, who shall serve in the absence of the Chair. The term of office shall continue for one year, provided that the Committee may designate a new Chair or Vice Chair during this term in the manner described above. The Chair and Vice Chair shall serve no more than two consecutive terms, however, there shall be no limit on the total number of terms held. As described in Section 3.1, the Chair shall serve as the Ex Officio Board Member on the Board, and the Vice Chair shall serve as an alternate Ex Officio Board Member when the Chair is absent from a Board meeting.

3.5.3 Reports to the Board. The Committee may prepare or cause to be prepared for presentation to the Board any reports, investigations, studies, or analyses relating to the Authority.

3.5.4 Placing Matters on Board’s Agenda. The Committee may place any matter relating to the Authority on the Board’s agenda for consideration and possible action.

3.5.5 Support for Committee. The Board shall provide reasonable and necessary administrative and financial assistance to the Committee. The Committee may enter into contracts as reasonably necessary to carry out its duties and powers; provided, however, that the amount payable under any contract cannot exceed \$35,000 per year, (b) the total amount payable under all contracts cannot exceed \$75,000 per year, and (c) the contracts are in a form acceptable to the Board. These expenditure limits shall be adjusted annually to account for the effects of inflation. The Board may authorize an amount in excess of these expenditure limits if it finds and determines that it is reasonable and necessary to do so for

the Committee to perform its obligations.

3.6 Other Commissions, Boards, and Committees. The Board may establish any other 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, which shall comply with the requirements of the Ralph M. Brown Act. The Board may establish rules, regulations, policies, bylaws or procedures to govern any such established commissions, boards, or committees, and shall determine whether members shall be compensated or entitled to reimbursement for expenses. The Board may not delegate to any commission, board, or committees its Essential Functions listed in Section 3.3. After any commission, board, or committee meets or otherwise takes action, it shall, as soon as practicable, make a report of its activities at a meeting of the Board.

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

3.8 Board Voting. In general, as described below in Section 3.8.1, action by the Board will be taken solely by a majority vote of the Directors present. However, as described below in Section 3.8.2, upon request of a Director, a weighted vote by shares will also be conducted. Section 3.8.3 describes the methodology employed to calculate the weighted votes, which are disclosed in Exhibit C. When such a request is made, an action must be approved by both a majority vote of Directors present and a majority of the weighted vote by shares present. Section 3.8.5 describes special circumstances that require a two-thirds or three-quarters vote. The voting shares of Directors and approval requirements for actions of the Board shall be as follows:

3.8.1 Standard Approval by Majority Vote. Except as provided in Sections 3.8.2 and 3.8.6 below, action of the Board shall require the affirmative vote of a majority of Directors present at the meeting.

3.8.2 Elective Approval by Weighted Vote. Notwithstanding Section 3.8.1, either before or immediately after an affirmative vote of a majority of Directors present, any Director present may demand that approval of any matter be determined on the basis of both weighted voting shares and by the affirmative vote of a majority of Directors present at the meeting. If a Director makes such a demand with respect to approval of any such matter, then approval of such matter shall require the affirmative vote of a majority of Directors present at the meeting and the affirmative vote of Directors having a majority of weighted voting shares present, as determined by Section 3.8.3 except as provided in Section 3.8.6.

3.8.3 Weighted Voting Shares. Each Director shall have a weighted voting share as determined by the following formula: (Annual Customer Receipts divided by Total Customer Receipts) multiplied by 100, where:

- (a) “Annual Customer Receipts” means, (i) with respect to the first year following the Effective Date, the estimated revenue to be collected from all customers in a Party’s jurisdiction, to be estimated based on average forecasted total average rates multiplied by annual electricity usage and designated in Exhibit C, and (ii) with respect to the period after the anniversary of the Effective Date, the annual customer receipts collected or owed to the Authority from all accounts served within each Party’s respective jurisdiction, to be adjusted and approved by the Board as soon as reasonably practicable but no later than three (3) months after the anniversary of the

Effective Date; and

(b) “Total Customer Receipts” means the sum of all Parties’ Annual Customer Receipts.

3.8.4 Exhibit Showing Customer Receipts and Weighted Voting Shares. The estimated initial weighted voting shares will be set forth in Exhibit C. Exhibit C shall be revised no less than annually as necessary to account for changes in the number of Parties and changes in the Parties’ Annual Customer Receipts. Exhibit C and adjustments shall be approved by the Board.

3.8.5 Effect of Withdrawal or Involuntary Termination of a Party. In the event a Party withdraws from the Authority under Section 6.4, Exhibit C shall be recalculated immediately after the effective date of withdrawal of the Party; the Party may continue to participate in Board discussions and decisions until the effective date of withdrawal pursuant to Section 6.6. In the event of an affirmative vote to involuntarily terminate a Party under Section 6.5 and Section 3.8.6(a), Exhibit C shall be immediately recalculated as if the involuntarily terminated Party was not a Party to this Agreement; the Party may observe but not participate in Board discussions and decisions until the effective date of termination pursuant to Section 6.6.

3.8.6 Special Voting Quota Requirements for Certain Matters.

(a) **Two-Thirds and Weighted Voting Approval Requirements for the Involuntary Termination of a Party or Amendment of this Agreement.** Action of the Board on the matters set forth in Section 6.5 (involuntary termination of a Party), or Section 7.4 (amendment of this Agreement) shall require the affirmative vote of at least two-thirds of Directors present; provided, however, that (i) notwithstanding the foregoing, any Director present at the meeting may demand that the vote be determined on the basis of both voting shares and by the affirmative vote of Directors, and if a Director makes such a demand, then approval shall require the affirmative vote of both at least two-thirds of Directors present and the affirmative vote of Directors having at least two-thirds of the voting shares present, as determined by Section 3.8.3; (ii) but, at least two Parties must vote against a matter for the vote to fail; and (iii) for votes to involuntarily terminate a Party under Section 6.5, the Director(s) for the Party subject to involuntary termination may not vote, and the number of Directors constituting two-thirds of all Directors, and the weighted vote of each Party shall be recalculated as if the Party subject to possible termination were not a Party.

(b) **Three-Quarters Special Voting Requirements for Eminent Domain and Contributions or Pledge of Assets.**

(i) A decision to exercise the power of eminent domain on behalf of the Authority to acquire any property interest other than an easement, right-of-way, or temporary construction easement shall require a vote of at least three-quarters of all Directors.

(ii) The imposition on any Party of any obligation to make contributions or pledge assets as a condition of continued participation in the Authority shall require a vote of at least three-quarters of all Directors and the approval of the governing bodies of the Parties who are being asked to make such contribution or pledge.

(iii) Notwithstanding the foregoing, any Director present at the meeting may demand that a vote under subsections (i) or (ii) be determined on the basis of voting shares

and by the affirmative vote of Directors, and if a Director makes such a demand, then approval shall require both the affirmative vote of at least 75% of Directors present and the affirmative vote of Directors having at least 75% of the weighted voting shares present, as determined by Section 3.8.3, but at least two Parties must vote against a matter for the vote to fail. For purposes of this section, “imposition on any Party of any obligation to make contributions or pledge assets as a condition of continued participation in the Authority” does not include any obligations of a withdrawing or terminated party imposed under Section 6.6.

3.9 Meetings and Special Meetings of the Board. The Board shall hold at least six 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 Sections 54956 and 54956.5. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law. All meetings shall be conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code Sections 54950 et seq.).

3.10 Selection of Board Officers.

3.10.1 Chair and Vice Chair. The Directors shall select, 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 term of office of the Chair and Vice Chair shall continue for one year, provided that the Directors may designate a new Chair or Vice Chair during this term. The Chair and Vice Chair shall serve no more than two consecutive terms, however, there shall be no limit on the total number of terms held by either the Chair or Vice Chair. The office of either the Chair or Vice Chair shall be declared vacant and a new selection shall be made if:

- (i) the person serving dies, resigns, or the Party that the person represents removes the person as its representative on the Board; or
- (ii) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement.

3.10.2 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.

3.10.3 Treasurer and Auditor. The Board shall designate qualified persons (as described in Government Code §6505.5 and §6505.6) to serve as Treasurer and as Auditor of the Authority. Unless otherwise exempted from such requirement, the Authority shall cause an independent audit to be made by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall 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 Treasurer shall report directly to the Board and shall comply with the requirements of treasurers of incorporated municipalities, this Agreement, or any rules of the Board. The Board may transfer the responsibilities of Treasurer and Auditor to any person or entity as the law may provide at the time. The duties and obligations of the Treasurer are further specified in Article 5

3.11 Appointment of Administering Entity. Pursuant to Government Code Section 6506, the Board may appoint an agency or entity, including one or more Members upon consent of the governing body of such Member, a commission or board constituted pursuant to this Agreement, or a person, firm or corporation, including a nonprofit corporation, which it may designate, to administer or execute this Agreement, or any portions of this Agreement. 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.

3.12 Principal Office. The principal office of the Authority shall be established by the Board. The Board may change the location of the principal office upon giving at least 15 days written notice to each Party.

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

3.14 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 Authority relative to this Agreement, the Authority Documents, the Operating Rules and Regulations, and applicable law. 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 4: AUTHORITY DOCUMENTS AND CCA IMPLEMENTATION ACTION

4.1 Preliminary Implementation of the CCA Program.

4.1.1 Enabling Ordinance. To be eligible to participate in the CCA Program, each Party must adopt an ordinance in accordance with Public Utilities Code Section 366.2(c)(12) for the purpose of specifying that the Party intends to implement a CCA Program by and through its participation in the Authority.

4.1.2 Implementation Plan. The 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 3.8.

4.1.3 Termination of CCA Program. Nothing contained in this Article or this Agreement shall be construed to limit the discretion of the Authority to terminate the implementation or operation of the CCA Program at any time in accordance with any applicable requirements of state law.

4.2 Authority Documents. The Parties acknowledge and agree that the affairs of the Authority will be implemented through various documents duly adopted by the Board through Board resolution and minute action. The Parties agree to abide by and comply with the terms and conditions of all such documents that may be adopted by the Board, subject to the Parties' right to withdraw from the Authority as described in Article 6.

ARTICLE 5: FINANCIAL PROVISIONS

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

5.2 Depository.

5.2.1 Authority Funds. 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 unless otherwise directed by the Board.

5.2.2 Accounting. All funds of the Authority shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of the Authority shall be open to inspection by the Parties at all reasonable times. The Board shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Authority, which shall be conducted in accordance with the requirements of Section 6505 of the Act.

5.2.3 Expenditures. 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.

5.3 Budget and Recovery of Costs.

5.3.1 Budget. The initial budget shall be approved by the Board. The Board may revise the budget from time to time as may be reasonably necessary to address contingencies and unexpected expenses. All subsequent budgets of the Authority shall be approved by the Board in accordance with the Operating Rules and Regulations, provided that the annual budget is approved at or before the Board's last regularly scheduled meeting prior to the end of the fiscal year.

5.3.2 Funding of Initial Costs. If the governing body of a Party elects to fund certain activities necessary to implement the CCA Program, then if the CCA Program becomes operational, these initial costs shall be included in the customer charges for electric services as provided by Section 5.3.3 to the extent permitted by law, and the Party shall be reimbursed from the payment of such charges by customers of the Authority. Prior to such reimbursement, the Party shall provide such documentation of costs paid as the Board may request. The Authority shall establish a reasonable time period over which such costs are recovered. In the event that the CCA Program does not become operational, the Party shall not be entitled to any reimbursement of the Initial Costs it has paid from the Authority or any Party.

5.3.3 CCA Program Cost Recovery. The Parties desire that all costs incurred by the Authority that are directly or indirectly attributable to the provision of electric, conservation, efficiency, incentives, financing, or other services provided under the CCA Program, including but not limited to the establishment and maintenance of various reserves and performance funds and administrative, accounting, legal, consulting, and other similar costs, shall be recovered through charges to CCA customers receiving such electric services, or from revenues from grants or other third-party sources.

5.3.4 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.

5.3.5 Return of Revenues. Revenues received from the activities of the Authority may not be disbursed to any Party for any purpose other than those pursuant to Section 2.4. The Board shall hold title to all funds and assets acquired by the Authority.

5.4 Disposition of Property upon Termination of Authority. Pursuant to Sections 6511 and 6512 of the Act and notwithstanding Section 5.3.5 of this Agreement, upon termination of this Agreement, any surplus money or assets in possession of the Authority for use under this Agreement, after payment of all liabilities, costs, expenses, and charges incurred under this Agreement and under any program documents, shall be returned to the then-existing Parties in proportion to their respective contributions of cumulative Annual Customer Receipts, as defined by Section 3.8.3, made by each of the then-existing Parties.

ARTICLE 6: AUTHORITY PARTICIPATION

6.1 Initial Parties. Until the Effective Date, all 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 6.2, may apply (i) to an entity desiring to become a Party that is not an Initial Participant and (ii) to Initial Participants that have not executed and delivered this Agreement on or before the Effective Date.

6.2 Addition of Parties. Other entities may become Parties upon (a) the adoption of a resolution by their governing body to 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 3.8.1, of a resolution authorizing membership, specifying the membership payment, if any, to be made to reflect a 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 entity, (d) payment of the membership fee, if any, and (e) satisfaction of any conditions established by the Board.

6.3 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. 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.

6.4 Withdrawal.

6.4.1 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 6 months' advance written notice of its election to do so, which notice shall be given to the Authority and each Party. Withdrawal of a Party shall require an affirmative vote of the Party's governing body. In the event of such withdrawal, the Party shall be subject to the provisions of Section 6.6.

6.4.2 Right to Withdraw After Amendment. Notwithstanding Section 6.4.1, a Party may withdraw its membership in the Authority following an amendment to this Agreement adopted by the Board which the Party's Director(s) voted against provided such notice is given in writing within thirty (30) days following the date of the vote. Withdrawal of a Party shall require an affirmative vote of the Party's governing body and shall not be subject to the six-month advance notice provided in Section 6.4.1. In the event of such withdrawal, the Party shall be subject to the provisions of Section 6.6.

6.4.3 The Right to Withdraw Prior to CCA Program Launch. Prior to executing initial power purchase agreements for the CCA Program, the Authority must provide to the Parties a report that compares the total estimated electrical rates that the Authority will be charging to customers as well as the estimated greenhouse gas emissions rate and the amount of estimated renewable energy used with that of the incumbent utility. If the report provides that the Authority is unable to provide total electrical rates, as part of its baseline offering, to the customers that are equal to or lower than the incumbent utility or to provide power in a manner that has a lower greenhouse gas emissions rate or more renewable energy than the incumbent utility, a Party may immediately withdraw its membership in the Authority without any financial obligation, as long as the Party provides written notice of its intent to withdraw to the Board no more than fifteen days after receiving the report.

6.4.4 Continuing Financial Obligation; Further Assurances. Except as provided by Section 6.4.3, a Party that withdraws its participation in Authority may be subject to certain continuing financial obligations, as described in Section 6.6. Each withdrawing Party and the Authority shall execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from participation in the Authority.

6.5 Involuntary Termination of a Party. Participation of a Party may be terminated for material non-compliance with provisions of this Agreement or any other Authority Documents upon a vote of Board members as provided in Section 3.8.6. Prior to any vote to terminate participation with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Party whose termination is proposed at least 30 days prior to the regular Board meeting at which such matter shall first be discussed as an agenda item. The written notice of proposed termination shall specify the particular provisions of this Agreement or other agreement that the Party has allegedly violated. The Party subject to possible termination shall have the opportunity at the next regular Board meeting to respond to any reasons and allegations that may be cited as a basis for termination prior to a vote regarding termination. A Party that has been involuntarily terminated may be subject to certain continuing liabilities, as described in Section 6.3, and restrictions regarding participation in Board decisions subsequent to the Board's affirmative vote to terminate the Party through its effective date of termination, as described in Section 3.8.5.

6.6 Continuing Financial Obligations; Refund. Except as provided by Section 6.4.3, upon a withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or other financial obligations arising from the Party's membership in the Authority, including participation in the CCA Program, through the date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any financial obligations arising after the date of the Party's withdrawal or involuntary termination. Claims, demands, damages, or other financial obligations for which the Party may remain liable include, but are not limited to, losses from the resale of power contracted for by the Authority to serve the Party's load in the CCA Program. With respect to such financial obligations, upon notice by a Party that it

wishes to withdraw, the Authority shall notify the Party of the minimum waiting period under which the Party would have no costs for withdrawal if the Party agrees to stay for such period. If the Party elects to withdraw before the end of the minimum waiting period, the charge for exiting shall be set at a dollar amount that would recover any such financial obligations, and may not include punitive charges that exceed actual costs. As a condition precedent to a Party's withdrawal from the Authority or in the event of an affirmative vote to involuntarily terminate a Party, the Authority may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority and approved by a vote of the Board, to cover the Party's financial obligations for the costs described above; if sufficient funds are not furnished by the Party, the Authority may set the effective date of withdrawal or termination at the conclusion of the minimum waiting period. No portion of the Authority's assets shall be remitted to the Party, but any amount of the Party's funds held on deposit with the Authority above that which is required to pay any financial obligations shall be returned to the Party. The liability of any Party under this section 6.6 is subject and subordinate to the provisions of Section 2.2, 2.3 and 2.5.7, and nothing in this Section 6.6 shall reduce, impair, or eliminate any immunity from liability provided by Section 2.2, 2.3 and 2.5.7.

6.7 Mutual Termination of Authority. This Agreement may be terminated by mutual agreement of all the Parties; provided that: (i) the foregoing shall not be construed as limiting the rights of a Party to withdraw its membership in the Authority, as described in Section 6.4; (ii) this Agreement cannot be terminated until such time as all principal of and interest on any bonds and other forms of indebtedness that the Authority may issue are paid in full ; and (iii) this Agreement and the Authority continue to exist following termination for the purpose of disposing of all claims, distributing assets, and all other functions necessary to conclude the obligations and affairs of the Authority.

ARTICLE 7: MISCELLANEOUS PROVISIONS

7.1 Dispute Resolution. The Parties and the Authority shall make reasonable efforts to informally settle all disputes arising out of or in connection with this Agreement. Should such informal efforts to settle a dispute, after reasonable efforts, fail, the dispute shall be mediated in accordance with the Operating Rules and Regulations established by the Board.

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

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

7.4 Amendment of this Agreement. This Agreement may not be amended except by a written amendment approved by a vote of Board members as provided in Section 3.8.6. The Authority shall provide written notice to all Parties of amendments to this Agreement, including the effective date of such amendments, at least 30 days prior to the date upon which the Board votes on such amendments. Notwithstanding this Section 7.4, Section 2.5.7 may not be amended unless such amendment is approved by the governing body of each Party.

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

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

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

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

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

Exhibit A Definitions

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

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

“Agreement” means this Joint Powers Agreement.

“Annual Customer Receipts” has the meaning given in Section 3.8.3.

“Authority” means the [INSERT AGENCY NAME] Authority.

“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.

“Board” means the Board of Directors of the Authority.

“CCA” or “Community Choice Aggregation” means an electric service option available to entities authorized under Public Utilities Code Section 331.1, pursuant to Public Utilities Code Section 366.2.

“CCA Program” means the Authority’s program relating to CCA.

“Committee” means the Community Advisory Committee described under Section 3.5.

“Days” shall mean calendar days unless otherwise specified by this Agreement.

“Director” means a member of the Board of Directors representing a Party, including an alternate Director.

“Distributed Energy Resources” can refer to utility-side distributed energy resources (such as battery storage or community solar interconnected to the distribution grid) or customer-side distributed energy resources (installed behind-the-meter in buildings and facilities), including energy efficiency and conservation, advanced metering and monitoring, demand response, electric vehicle managed charging, rooftop solar, combined heat and power, energy storage, microgrids, and other enabling technologies and practices. Note that customer-side distributed energy resources may impact onsite usage of electricity, natural gas, gasoline and other fuels.

“Effective Date” means [INSERT DATE] or when at least two entities execute this Agreement, whichever occurs later, as further described in Section 2.1.

“Ex Officio Board Member” means a non-voting member of the Board of Directors as described in Section 3.1 and 3.5.2.

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

Approved [insert date]

Exhibit A Definitions (continued)

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

“Initial Participants” means, for the purpose of this Agreement, [INSERT MEMBER PARTIES]

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

“Parties” means, collectively, the signatories to this Agreement that have satisfied the conditions in Sections 6.1 or 6.2 such that it is considered a member of the Authority.

“Party” means, singularly, a signatory to this Agreement that has satisfied the conditions in Sections 6.1 or 6.2 such that it is considered a member of the Authority.

“Total Customer Receipts” has the meaning given in Section 3.8.3.

Exhibit B List of Parties

(This draft exhibit is based on the assumption that all of the Initial Participants will become Parties. On the Effective Date, this exhibit will be revised to reflect the Parties to this Agreement at that time.)-

Parties:

1. Beverly Hills
2. Carson
3. Culver City
4. Hermosa Beach
5. Lomita
6. Malibu
7. Manhattan Beach
8. Palos Verdes Estates
9. Rancho Palos Verdes
10. Redondo Beach
11. Rolling Hills Estates
12. Santa Monica
13. Torrance
14. West Hollywood

Approved [insert date]

Exhibit C Annual Gross Revenues and Voting Shares

(This draft exhibit is based on the assumption that all of the Initial Participants will become Parties. On the Effective Date, this exhibit will be revised to reflect the Parties to this Agreement at that time.)

ANNUAL GROSS REVENUES WITHIN [INSERT AGENCY NAME] JURISDICTIONS AND VOTING SHARES				
<i>Twelve Months Ended [INSERT DATE]</i>				
Party	Load (MWh)	Gross Revenues	Weighted Voting Share	Director Voting Share
Rolling Hills Estates	58,670	\$3,520,200	0.92	1
Palos Verdes Estates	59,267	\$3,556,020	0.93	1
Lomita	59,743	\$3,584,580	0.94	1
Hermosa Beach	79,251	\$4,755,060	1.24	1
Rancho Palos Verdes	193,017	\$11,581,020	3.03	1
Manhattan Beach	201,673	\$12,100,380	3.16	1
Malibu	207,408	\$12,444,480	3.25	1
Redondo Beach	297,652	\$17,859,120	4.67	1
West Hollywood	323,687	\$19,421,220	5.08	1
Culver City	437,764	\$26,265,840	6.87	1
Beverly Hills	662,171	\$39,730,260	10.39	1
Santa Monica	922,716	\$55,362,960	14.48	1
Carson	1,290,329	\$77,419,740	20.25	1
Torrance	1,578,747	\$94,724,820	24.78	1
Total	6,372,095	382,325,700	100	14

Approved [insert date]

Exhibit D Signatories

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the [INSERT AGENCY].

By: _____

Name: _____

Title: _____

Date: _____

Party: _____

ATTEST:

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____

Name: _____

Title: _____

Approved [insert date]