

Proposals for Alameda County's Community Choice JPA Agreement



The East Bay Clean Power Alliance supports an Alameda County Community Choice program—East Bay Community Energy—that puts our communities in Community Choice.

This means establishing a program that strives to meet community benefit goals and is responsive to the communities it serves. To this end, it is important that there be community involvement in decision-making and that the goals for the program be embodied in foundational documents, such as the JPA agreement and the ordinances cities pass to join the JPA.

The attached packet includes three proposals:

- Proposal 1 calls for including in the JPA agreement the program goals formulated by County staff and approved by the Steering Committee. This follows the precedent set by the [Marin](#), [Sonoma](#), and [San Mateo](#) Community Choice JPA agreements. The proposed language is close to Sonoma's JPA agreement, excerpts of which are included in the attached packet.
- Proposal 2 calls for including the same goals in the city ordinances. This follows the precedent set in Sonoma and San Mateo. The proposed language is close to Santa Rosa's ordinance, which is included in the attached packet.
- Proposal 3 calls for a JPA Board of Directors responsive to the communities it serves. It includes provisions that city representatives be elected officials and that five community representatives serve as non-voting members of the Board. This follows the precedent set by many public governing boards. The proposal also includes a process for selecting those community representatives.

Alameda County has already joined other Community Choice programs in recognizing the importance of engaging the community by including community representatives on the Steering Committee and other committees.

We ask for your support for these proposals.

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East Bay Clean Power Alliance JPA Proposal 1: Include Community Benefit Goals in the JPA agreement

Program goals for East Bay Community Energy should be included in the JPA agreement, just as they are in other Community Choice JPA agreements, such as those of [Marin Clean Energy](#), [Sonoma Clean Power](#) and [Peninsula \(San Mateo\) Clean Energy Authority](#).

The appropriate place for stating program goals and priorities is in in the Recitals section of the JPA agreement (see, for example, Attachment 1: Sonoma Clean Power JPA agreement, Recitals, sections C. and D.).

Recitals: Section C.

Recital C. of the Sonoma County JPA agreement states the purposes (goals) of its program. Alameda County Community Choice program goals, as put forth by County staff and approved by the Steering Committee, should similarly be included. The equivalent section would read as follows:

C. The purposes for entering into this Agreement include:

1. Achieving overall electricity rates and customer bills that are lower or competitive with those offered by PG&E for similar products.
2. Providing customers 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.
3. Providing an electric supply portfolio with a lower greenhouse gas (GHG) intensity than PG&E, and one that supports the achievement of Alameda County’s Climate Action Plan greenhouse gas reduction goals and comparable goals of all participating jurisdictions.
4. Providing an energy portfolio that prioritizes the use and development of renewable resources and minimizes the use of unbundled renewable energy certificates (RECs).
5. Providing an energy portfolio that incorporates energy efficiency and demand response programs and has aggressive reduced consumption goals.
6. Demonstrating quantifiable economic benefits to the region (e.g. union and prevailing wage jobs, local workforce development, new energy programs, and increased local energy investments).
7. Promoting personal and community ownership of renewable resources, spurring equitable economic development and increased resilience, especially in low income communities and communities of color, which are most impacted by climate change.
8. Establishing an administering Agency that is financially sustainable, responsive to County and regional priorities, and well managed.

Recitals: Section D.

Recital D. of the Sonoma County JPA agreement underscores the intention to prioritize the development of local renewable resources over market-purchased electricity. This statement should also be included in the East Bay Community Energy JPA agreement with the following minor changes (addition in bold, deletion as strikethrough).

- D. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy resources and energy efficiency programs including but not limited to solar, wind and biomass energy production. The purchase of **non-local** renewable power ~~and use of renewable energy credits~~ is intended only as a transitional method to decrease regional greenhouse gas emissions; local renewable energy projects are the preferred method.

(Note: minimizing the use of unbundled RECs is already in the Alameda County goals)

East Bay Clean Power Alliance JPA Proposal 2: Include Community Benefit Goals in the Template City Ordinance

Program goals for East Bay Community Energy should be included in the template city ordinance being drafted by the County for use by cities, just as they are in other Community Choice city ordinances, such as those of the [City of Santa Rosa](#) and [cities of San Mateo County](#).

The appropriate place for stating program goals is in the first section of the ordinance, where they are enumerated as benefits identified by the corresponding feasibility report (see, for example, Attachment 2: City of Santa Rosa ordinance).

Alameda County Community Choice program goals, as put forth by County staff and approved by the Steering Committee, should be enumerated in the template ordinance, with minor changes (in bold). The list of goals would be as follows:

- a. Achieving overall electricity rates and customer bills that are lower or competitive with those offered by PG&E for similar products.
- b. Providing customers 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. Providing an electric supply portfolio with a lower greenhouse gas (GHG) intensity than PG&E, and one that supports the achievement of **[city’s name]** Climate Action Plan greenhouse gas reduction goals ~~and comparable goals of all participating jurisdictions~~.
- d. Providing an energy portfolio that prioritizes the use and development of renewable resources and minimizes the use of unbundled renewable energy certificates (RECs).
- e. Providing an energy portfolio that incorporates energy efficiency and demand response programs and has aggressive reduced consumption goals.
- f. Demonstrating quantifiable economic benefits to **[city name]** (e.g. union and prevailing wage jobs, local workforce development, new energy programs, and increased local energy investments).
- g. Promoting personal and community ownership of renewable resources, spurring equitable economic development and increased resilience **within [city name]**, especially in low income communities and communities of color, which are most impacted by climate change.
- h. Establishing an administering Agency that is financially sustainable, responsive to **[city name]** and regional priorities, and well managed.

East Bay Clean Power Alliance JPA Proposal 3: Include Community Representation on the JPA Board

For a Community Choice energy program to be a public electricity service provider that meets community needs, the program requires a governance structure that represents the diverse interests of the community. This implies strong involvement, both directly and through elected representation, of the community in decision-making regarding the design, implementation, and operations of the Community Choice program.

We call for members of the governing board of East Bay Community Energy to be directly accountable to the public through two means.

City Representatives

City representatives ensure that participating jurisdictions have a voice. Elected officials are responsible to voters and are obligated to consider what the public views as in their best interest. Therefore, city representatives on the Board of East Bay Community Energy should be elected officials.

Community Representatives

Alameda County has ensured representation from community stakeholder interest groups both on its Community Choice Steering Committee and the hiring committee for the feasibility study. Similarly, we call for one member each representing the interests of labor, healthy environments, social justice (inclusiveness and racial equity), local renewable energy advocates, and small/diverse business to serve on the Board, as non-voting members.*

The selection of these five community members is proposed as follows. Once the city and unincorporated County representatives of the Board are seated, they elect the community representatives from a pool of applicants. Applicants would identify the community sector they would represent and be endorsed by letters from three organizations in that sector. Applicants must disclose any conflict of interest.

* There is strong precedent for non-voting, ex-officio members of governing boards in California:

- Salton Sea JPA has other COG ex-officio members:
<http://www.sci.sdsu.edu/salton/JointPowersAgreeSSManComm%20.html>
- California Vanpool Authority, where DOT and San Joaquin Valley Air Pollution Control District may appoint ex-officio members to that board:
http://www.sanbenitocog.org/agendas_minutes/Ita/2011/November/LTA_Item7_111711_a1.pdf
- Orange County Council of Governments, where they have included a League of Cities, Private Sector and University Representative as non-voting Ex-Officio:
http://cams.ocgov.com/Web_Publisher_Sam/Agenda08_25_2009_files/images/O00309-001321A.PDF
- Solano County Transit includes an agency member as an ex-officio:
http://www.soltransride.com/_files/SolTransJointPowers_FY2010_113300.pdf
- LA County Transportation Authority has ex-officio spots for SCAG, Amtrak, CHSRA, and CalTrans
http://media.metro.net/board/Items/2013/01_january/20130124RBMItem87.pdf

Attachment 1: Excerpt from Sonoma JPA Agreement

Second Amended and Restated Joint Powers Agreement

Relating to and Creating the

Sonoma Clean Power Authority

By and Among

The County of Sonoma and
The Sonoma County Water Agency

This Second Amended and Restated Joint Powers Agreement (“Agreement”), effective as of July 25, 2013, 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 (“Parties”), and supersedes the original Joint Powers Agreement dated December 4, 2012 and the First Amended and Restated Joint Powers Agreement dated June 25, 2013.

RECITALS

- A. The Parties share various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and customers within their jurisdictions.
- B. In 2006, the State Legislature adopted AB 32, the Global Warming Solutions Act, which mandates a reduction in greenhouse gas emissions in 2020 to 1990 levels. The California Air Resources Board is promulgating regulations to implement AB 32 which will require local governments to develop programs to reduce greenhouse gas emissions.
- C. The purposes for the entering into this Agreement include
 - a. Reducing greenhouse gas emissions related to the use of power in Sonoma County and neighboring regions;
 - b. Providing electric power and other forms of energy to customers at a competitive cost;
 - c. Carrying out programs to reduce energy consumption;
 - d. Stimulating and sustaining the local economy by developing local jobs in renewable energy; and
 - e. Promoting long-term electric rate stability and energy security and reliability for residents through local control of electric generation resources.
- D. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to

solar, wind, and biomass energy production. The purchase of renewable power and use of renewable energy credits is intended only as a transitional method to decrease regional greenhouse gas emissions; local renewable projects are the preferred method.

- E. The Parties desire to establish a separate public agency, known as the Sonoma Clean Power 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.
- F. The Parties anticipate adopting an ordinance electing to implement through the Authority a common Community Choice Aggregation program, an electric service enterprise available to cities, counties, and the Sonoma County Water Agency pursuant to California Public Utilities Code Sections 331.1(c) and 366.2 (“CCA Program”). The first priority of the Authority will be the consideration of those actions necessary to implement the CCA Program.

AGREEMENT

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

ARTICLE 1: DEFINITIONS AND EXHIBITS

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

- Exhibit A: Definitions
- Exhibit B: List of the Parties and Participants
- Exhibit C: Annual Energy Use
- Exhibit D: Voting Shares

ARTICLE 2: FORMATION OF SONOMA CLEAN POWER AUTHORITY

- 2.1 Effective Date and Term. This Agreement shall become effective and Sonoma Clean Power Authority shall exist as a separate public agency on the date this Agreement is executed by the Parties. 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 7.4, subject to the rights of the Parties to withdraw from the Authority.
- 2.2 Formation. There is formed as of the Effective Date a public agency named the Sonoma Clean Power Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public agency separate from the Parties. Pursuant to Sections 6508.1 of the Act, the debts, liabilities or obligations of the Authority shall not be debts, liabilities or obligations of the individual Parties unless the governing board of a Party agrees in writing to assume any of the debts, liabilities or obligations of the Authority. A Party who has not agreed to assume an Authority debt, liability

Attachment 2: JPA Ordinance, City of Santa Rosa

ORDINANCE NO. 4009

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. The Sonoma County Water Agency prepared a Feasibility Study and a draft Implementation Plan for a community choice aggregation (“CCA”) program in Sonoma County under the provisions of Public Utilities Code §366.2. The Feasibility Study and draft Implementation Plan state that implementing a community choice aggregation program would provide multiple benefits, including:

- Providing customers a choice of power providers;
- Increasing local control and involvement in and collaboration on energy rates and other energy-related matters;
- Providing stable long-term electric rates;
- Reducing greenhouse gas emissions arising from electricity use within Sonoma County;
- Increasing local renewable generation capacity;
- Increasing energy conservation and efficiency projects and programs;
- Increasing regional energy self-sufficiency;
- Improving the local economy resulting from the implementation of local renewable energy and energy conservation and efficiency projects; and

Section 2. On December 4, 2012, the County of Sonoma and the Sonoma County Water Agency approved a Joint Powers Agreement creating the Sonoma Clean Power Authority (“the Authority”). Under the Joint Powers Agreement, cities and towns within Sonoma County may participate in the Sonoma Clean Power CCA program by adopting the resolution and ordinance required by Public Utilities Code §366.2. Cities and towns choosing to participate in the CCA program will have membership on the Board of Directors of the Sonoma Clean Power Authority as provided in the joint powers agreement.

Section 3. The Authority has solicited bids from electric power suppliers and other service providers, in order to determine whether implementation of a CCA program in Sonoma County is financially viable. From those bids, the Authority has determined that a CCA program in Sonoma County could provide power to residents and businesses at rates that are competitive with those of the incumbent utility (PG&E).

Section 4. Under Public Utilities Code §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 do so.

Section 5. Based upon the forgoing, and in order to provide business and residents within the City of Santa Rosa with a choice of power providers and with the benefits described above,

the Council hereby affirmatively elects to implement a community choice aggregation program within the jurisdiction of the City of Santa Rosa by participating as a group with the County of Sonoma, the Sonoma County Water Agency, and other cities in Sonoma County in the Community Choice Aggregation program of the Sonoma Clean Power Authority, as generally described in the draft Implementation Plan, subject to the Authority's right to forego the implementation of a Community Choice Aggregation program in the event that the Board of Directors of the Sonoma Clean Power Authority determines not to finalize and approve an Implementation Plan for submission to the California Public Utilities Commission.

Section 6. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 7. Environmental Determination The City finds that the action approving Sonoma Power is within the scope of the Supplemental Environmental Impact Report of the Santa Rosa Climate Action Plan adopted on June 5, 2012, and further that any future projects in connection with Sonoma Clean Power will be subject to future environmental review consistent with the requirements of CEQA

Section 8. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

IN COUNCIL DULY PASSED this 30th day of July, 2013.

AYES: (6) Mayor Bartley, Council Members Combs, Ours, Olivares, Swinth, Wysocky

NOES: (0)

ABSENT: (1) Vice Mayor Carlstrom

ABSTAIN: (0)