

AGENDA

SPECIAL MEETING

BOARD OF DIRECTORS OF THE ORANGE COUNTY POWER AUTHORITY

December 16, 2020

10 a.m.

Due to the public health orders and guidelines in California and in accordance with the Governor's Executive Orders N-25-20 and N-29-20, there will be no location for in-person attendance. The Orange County Power Authority is providing alternatives to in-person attendance for viewing and participating in the meeting. Further details are below.

Note: Any member of the public may provide comments to the Orange County Power Authority Board of Directors on any agenda item or on a matter not appearing on the agenda, but within the jurisdiction of the Board. Please indicate whether your comment is on a specific agenda item or a non-agenda item when requesting to speak. When providing comments to the Board, it is requested that you provide your name and city of residence for the record. Commenters are requested to address their comments to the Board as a whole through the Chair. Comments may be provided in the following manner:

- Requests to Speak. In-person public attendance will not be provided. Members of the public who have requested to speak will be recognized at the appropriate time during the Zoom meeting and may speak through Zoom or telephonically. To allow the Chair to call on you, please provide the following minimum information with your request to speak: your name (if attending by videoconference) or telephone number (if attending by phone).

Comments shall be limited to three minutes when speaking. If you have anything that you wish to be distributed to the Board, please provide it via environmentalprograms@cityofirvine.org, who will distribute the information to the Members.

The public may participate using the following remote options:

ZOOM MEETING

Please click the link below to join the webinar:

<https://zoom.us/j/98816103889?pwd=eTJST0lmL05iSVRuQlVIUjByWVcvZz09>

Passcode: 545540

Or iPhone one-tap :US: +16699006833,,98816103889#,,,,,0#,,545540# or
+13462487799,,98816103889#,,,,,0#,,545540#

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 929 436 2866 or
+1 301 715 8592 or +1 312 626 6799

Webinar ID: 988 1610 3889

Passcode: 545540

International numbers available: <https://zoom.us/j/98816103889>

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

SWEARING IN OF AUTHORITY FORMATION MEMBERS, CITIES OF IRVINE, AND FULLERTON

ITEMS TO BE ADDED, WITHDRAWN OR REORDERED ON THE AGENDA

REGULAR CALENDAR

The following items call for discussion or action by the Board of Directors. The Board may discuss and/or take action on any item listed below if the Board is so inclined.

1. APPOINT ACTING SECRETARY

Recommendation:

Appoint Molly Perry, Irvine City Clerk, as Acting Secretary of the Orange County Power Authority.

2. RESOLUTIONS APPROVING ADDITIONAL MEMBERS TO ORANGE COUNTY POWER AUTHORITY

Recommendation:

1. Adopt resolution approving the City of Huntington Beach as a member of the Authority.
2. Adopt resolution approving the City of Buena Park as a member of the Authority.
3. Adopt resolution approving the City of Lake Forest as a member of the Authority.

3. SWEARING IN OF ADDITIONAL MEMBERS OF ORANGE COUNTY POWER AUTHORITY

Recommendation:

Swear in City of Huntington Beach, City of Buena Park, and City of Lake Forest Board Members.

4. APPOINTMENT OF CHAIR AND VICE CHAIR

Recommendation:

Recommend the Board select a Board Member to serve as Chair and another Board Member to serve as Vice Chair of the Orange County Power Authority.

5. APPOINT GENERAL COUNSEL AND APPROVE LEGAL SERVICES AGREEMENT

Recommendation:

1. Appoint Ryan Baron as General Counsel of the Authority.
2. Approve legal services agreement with Best Best & Krieger LLP and delegate authority to the Chair or Vice Chair to execute.
3. Delegate authority to the Chair or Vice Chair to execute conflict waiver with Best Best & Krieger LLP.

6. APPROVAL OF AGREEMENT WITH EES CONSULTING FOR COMMUNITY CHOICE ENERGY IMPLEMENTATION SERVICES

Recommendation:

Approve professional services agreement with EES Consulting for Community Choice Energy (CCE) implementation services in an amount not to exceed \$150,000, and delegate authority to the Chair to execute.

7. APPROVAL OF CAPITAL LOAN AGREEMENT TO FUND AUTHORITY OPERATIONS

Recommendation:

1. Approve Capital Loan Agreement between Authority and City of Irvine.
2. Delegate authority to Chair or Vice Chair to execute agreement.

8. APPROVE REGULAR MEETING DATE

Recommendation:

Approve December 22, 2020 at 10 a.m. for the next meeting of the Orange County Power Authority.

9. UPDATE ON POTENTIAL NEW MEMBERS, FILING OF IMPLEMENTATION PLAN, AND FUTURE AUTHORITY BUSINESS

Recommendation:

Receive update and provide direction.

PUBLIC COMMENTS

Opportunity for members of the public to address the Board on any items not on the agenda but within the jurisdiction of the Board.

DIRECTOR COMMENTS

Board Members may briefly provide information to other members of the Board and the public, ask questions of staff, request an item to be placed on a future agenda, or report on conferences, events, or activities related to Authority business. There is to be no discussion or action taken on comments made by Board Members unless authorized by law.

REPORT BY ACTING GENERAL COUNSEL

Acting General Counsel may briefly provide information to the Board and the public. The Board may engage in discussion if the specific subject matter of the report is identified, but the Board may not take any action other than to place the matter on a future agenda. Otherwise, there is to be no discussion or action taken unless authorized by law.

CLOSED SESSION

10. PUBLIC EMPLOYMENT

Pursuant to Government Code § 54957

Titles: Chief Executive Officer/Chief Operating Officer

11. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code § 54957.6

Agency Designated Representative(s): Ryan Baron, General Counsel

Unrepresented Employees: Chief Executive Officer/Chief Operating Officer

REPORT FROM CLOSED SESSION

ADJOURNMENT

Compliance with the Americans with Disabilities Act

Board of Directors meetings comply with the protections and prohibitions of the Americans with Disabilities Act. Individuals with a disability who require a modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may contact 949-724-6205. Requests for disability-related modifications or accommodations require different lead times and should be provided at least 72-hours in advance of the public meeting.

Availability of Board Documents

Copies of the agenda and agenda packet are available at www.cityofirvine.org/energy/ocpa-board-meetings. Late-arriving documents related to a Board meeting item which are distributed to a majority of the Board prior to or during the Board meeting are available for public review as required by law. Until the Authority obtains offices, those public records are available for inspection at the City of Irvine, located at 1 Civic Center Plaza, Irvine CA 92612. The documents may also be posted at the above website. Late-arriving documents received during the meeting are available for review by making a verbal request to the Board Secretary in the meeting room.

**ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 1**

To: Orange County Power Authority Board of Directors

From: Power Authority Staff

Subject: APPOINT ACTING SECRETARY

Date: December 16, 2020

RECOMMENDATION

Appoint Molly Perry, Irvine City Clerk, as Acting Secretary of the Orange County Power Authority.

**ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 2**

To: Orange County Power Authority Board of Directors
From: Power Authority Staff
Subject: RESOLUTIONS APPROVING ADDITIONAL MEMBERS TO ORANGE COUNTY POWER AUTHORITY
Date: December 16, 2020

RECOMMENDATION

1. Adopt resolution approving the City of Huntington Beach as a member of the Authority.
2. Adopt resolution approving the City of Buena Park as a member of the Authority.
3. Adopt resolution approving the City of Lake Forest as a member of the Authority.

BACKGROUND

On November 20, 2020, the Orange County Power Authority (Authority) Joint Powers Agreement (Agreement) was formally signed by the cities of Irvine and Fullerton and thus formally created the Joint Powers Authority. On December 10, 2020 the City of Huntington Beach signed the Agreement to join the Authority. Approval by the Board is needed for additional members to become parties to the Agreement and members of the Authority.

ANALYSIS AND DIRECTION

Section 4.1 of the Agreement provides a process by which interested cities can become members of the Authority and join as new members in addition to the Cities of Irvine, Fullerton, and Huntington Beach. An incorporated city may become a member of the Authority and a party to the Agreement if it (1) adopts a resolution by its governing body requesting participation and an intent to join, (2) passes an ordinance, and (3) executes the Agreement. The City of Buena Park is holding a meeting on December 15, 2020 to consider joining the Authority. The City of Lake Forest is also voting on December 15, 2020.

Should the additional cities approve the Agreement, Section 4.1.3 provides that the Board must adopt a resolution to approve the additional party's participation in the Authority. As two of these cities have not voted on the Agreement at the time this staff report was written, the Board should only consider approval of those cities that have voted to approve and otherwise complied with the additional party requirements of the Agreement.

FISCAL IMPACT

Not applicable

ATTACHMENTS

1. Resolution approving the City of Huntington Beach as a member of the Authority
2. Resolution approving the City of Buena Park as a member of the Authority.
3. Resolution approving the City of Lake Forest as a member of the Authority.

RESOLUTION NUMBER 2020-01

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE ORANGE COUNTY POWER AUTHORITY
AUTHORIZING PARTICIPATION IN THE AUTHORITY
BY THE CITY OF HUNTINGTON BEACH**

A. The Orange County Power Authority (Authority) was formed on November 20, 2020 pursuant to the Orange County Power Authority Joint Powers Agreement (Agreement).

B. The City of Huntington Beach (City) desires to participate in the Authority's community choice energy program, and adopted a resolution of intent to become a member of the Authority, passed an ordinance pursuant to California Public Utilities Code § 366.2, and executed the Agreement.

C. In accordance with the Section 4.1 of the Agreement, the Authority Board of Directors must approve the City as an additional party to the Agreement and City's participation in the Authority.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Orange County Power Authority as follows:

1. The Board of Directors has determined that the recitals herein are true and correct.
2. The Board of Directors hereby approves the City as a party to the Agreement and member of the Authority.
3. This Resolution shall be effective immediately after its adoption by the Board of Directors.

PASSED AND ADOPTED at a meeting of the Board of Directors of the Orange County Power Authority held on December 16, 2020.

Chair
Orange County Power Authority

Secretary
Orange County Power Authority

Approved as to form:

Legal Counsel

AYES: _____ NAYS: _____ ABSENT: _____ ABSTAIN: _____

RESOLUTION NUMBER 2020-02

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE ORANGE COUNTY POWER AUTHORITY
AUTHORIZING PARTICIPATION IN THE AUTHORITY
BY THE CITY OF BUENA PARK**

A. The Orange County Power Authority (Authority) was formed on November 20, 2020 pursuant to the Orange County Power Authority Joint Powers Agreement (Agreement).

B. The City of Buena Park (City) desires to participate in the Authority's community choice energy program, and adopted a resolution of intent to become a member of the Authority, passed an ordinance pursuant to California Public Utilities Code § 366.2, and executed the Agreement.

C. In accordance with the Section 4.1 of the Agreement, the Authority Board of Directors must approve the City as an additional party to the Agreement and City's participation in the Authority.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Orange County Power Authority as follows:

1. The Board of Directors has determined that the recitals herein are true and correct.
2. The Board of Directors hereby approves the City as a party to the Agreement and member of the Authority.
3. This Resolution shall be effective immediately after its adoption by the Board of Directors.

PASSED AND ADOPTED at a meeting of the Board of Directors of the Orange County Power Authority held on December 16, 2020.

Chair
Orange County Power Authority

Secretary
Orange County Power Authority

Approved as to form:

Legal Counsel

AYES: _____ NAYS: _____ ABSENT: _____ ABSTAIN: _____

RESOLUTION NUMBER 2020-03

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE ORANGE COUNTY POWER AUTHORITY
AUTHORIZING PARTICIPATION IN THE AUTHORITY
BY THE CITY OF LAKE FOREST**

A. The Orange County Power Authority (Authority) was formed on November 20, 2020 pursuant to the Orange County Power Authority Joint Powers Agreement (Agreement).

B. The City of Lake Forest (City) desires to participate in the Authority's community choice energy program, and adopted a resolution of intent to become a member of the Authority, passed an ordinance pursuant to California Public Utilities Code § 366.2, and executed the Agreement.

C. In accordance with the Section 4.1 of the Agreement, the Authority Board of Directors must approve the City as an additional party to the Agreement and City's participation in the Authority.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Orange County Power Authority as follows:

1. The Board of Directors has determined that the recitals herein are true and correct.
2. The Board of Directors hereby approves the City as a party to the Agreement and member of the Authority.
3. This Resolution shall be effective immediately after its adoption by the Board of Directors.

PASSED AND ADOPTED at a meeting of the Board of Directors of the Orange County Power Authority held on December 16, 2020.

Chair
Orange County Power Authority

Secretary
Orange County Power Authority

Approved as to form:

Legal Counsel

AYES: _____ NAYS: _____ ABSENT: _____ ABSTAIN: _____

**ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 3**

To: Orange County Power Authority Board of Directors
From: Power Authority Staff
Subject: SWEARING IN OF ADDITIONAL MEMBERS OF ORANGE COUNTY
POWER AUTHORITY
Date: December 16, 2020

RECOMMENDATION

Swear in City of Huntington Beach, City of Buena Park, and City of Lake Forest Board Members.

**ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 4**

To: Orange County Power Authority Board of Directors
From: Power Authority Staff
Subject: APPOINTMENT OF CHAIR AND VICE CHAIR
Date: December 16, 2020

RECOMMENDATION

Recommend that the Board select a Board Member to serve as Chair and another Board Member to service as Vice Chair of the Orange County Power Authority.

BACKGROUND

On November 20, 2020, the Orange County Power Authority (Authority) Joint Powers Agreement (Agreement) was formally signed by the cities of Irvine and Fullerton and thus formally created the Joint Powers Authority. This Staff Report seeks appointment from the Board Members of a Chair and Vice Chair.

ANALYSIS AND DIRECTION

Section 3.10.01 of the Authority Agreement states that the Board Members shall select from among themselves a Chair and Vice Chair. The Chair shall be the presiding officer of all Board meetings. The Vice Chair shall continue until the expiration of the office of the Directors serving in such positions. There shall be no limit on the number of terms held by the Chair and the Vice Chair. The office of either the Chair or Vice Chair shall be declared vacant and a new selection shall be made if: (a) the person serving dies, resigns, or becomes legally unable to fulfill his or her duties, or (b) the Party that appointed the Chair or Vice Chair withdraws from the Authority pursuant to the provisions of this Agreement.

FISCAL IMPACT

Not applicable

**ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 5**

To: Orange County Power Authority Board of Directors
From: Power Authority Staff
Subject: APPOINT GENERAL COUNSEL AND APPROVE LEGAL SERVICES AGREEMENT
Date: December 16, 2020

RECOMMENDATION

1. Appoint Ryan Baron as General Counsel of the Authority.
2. Approve legal services agreement with Best Best & Krieger LLP and delegate authority to the Chair or Vice Chair to execute.
3. Delegate authority to the Chair or Vice Chair to execute conflict waiver with Best Best & Krieger LLP.

BACKGROUND

On November 20, 2020, the Orange County Power Authority (Authority) Joint Powers Agreement (Agreement) was formally signed by the cities of Irvine and Fullerton and thus formally created the Joint Powers Authority (JPA). The Authority is in need of legal counsel to advise on and attend Authority meetings and provide legal services in the form of general counsel, regulatory and procurement in the implementation of the Authority's community choice energy program.

ANALYSIS AND DIRECTION

The Authority is in need of a general counsel to attend public meetings and advise on public agency and municipal matters. The Authority is also in need of specialized legal services for energy regulatory and procurement matters that are unique to community choice energy joint powers authority programs. Best Best & Krieger LLP (BB&K) was retained by the City of Irvine as special counsel to advise the City on community choice energy and assist with formation of the Authority. The firm's services are needed to implement the Authority's CCE program and due to their experience forming seven other CCE programs

Under the legal services agreement, BB&K will serve as general counsel to the Authority. BB&K's role will be to provide legal oversight in establishing the organizational structure and necessary contractual relationships to launch the CCE program. Under the Agreement, legal services shall include the following:

- General legal support for Authority governance and operations including required legal filings with other agencies as may be required by law.
- Preparation of bylaws and other policies as may be desired by the Board.
- Review of monthly Board agendas and materials, and attendance at all Board meetings and workshops.
- Provide Brown Act, Conflict of Interest and Public Records Act advice and representation.
- Provide and/or review standard vendor contract terms and template for consultants and professional service providers. Draft/review contract for wholesale power services, data management and other high dollar, technical service contracts.
- Advice to the CEO and designated staff on administrative and operational matters.
- Research and advice on operational/pubic agency legal questions asked by the Board, CEO and designated staff.
- Support regulatory, power procurement and financial efforts, including compliance filings and energy contracting.

It is anticipated that BB&K legal services agreement with the City of Irvine will terminate upon becoming legal counsel to the Authority. Although the City of Irvine and the Authority share a common interest and are not adverse to one another, BB&K advises that a conflict waiver should be executed by both agencies out of an abundance of caution since BB&K helped form the Authority. In addition, should the City of Lake Forest become a member of the Authority, a conflict waiver would be needed because BB&K is City Attorney to Lake Forest. It is requested that either the Chair or Vice Chair be delegated authority to execute any waivers.

FISCAL IMPACT

Approximately \$240,000 per fiscal year. An Authority budget will be prepared for a future Board meeting estimating approximate legal costs depending on the priorities of the Board.

ATTACHMENT

1. BB&K Proposal
2. Legal Services Agreement

Indian Wells
(760) 568-2611

Irvine
(949) 263-2600

Los Angeles
(213) 617-8100

Manhattan Beach
(310) 643-8448

Ontario
(909) 989-8584



BEST BEST & KRIEGER
ATTORNEYS AT LAW

18101 Von Karman Avenue, Suite 1000, Irvine, CA 92612
Phone: (949) 263-2600 | Fax: (949) 260-0972 | www.bbklaw.com

Riverside
(951) 686-1450

Sacramento
(916) 325-4000

San Diego
(619) 525-1300

Walnut Creek
(925) 977-3300

Washington, DC
(202) 785-0600

Ryan M. F. Baron
(949) 263-6568
ryan.baron@bbklaw.com

December 9, 2020

ELECTRONIC DELIVERY

Board of Directors
Orange County Power Authority

Re: Proposal to Provide General Counsel Services

Dear Board of Directors:

On behalf of Best Best & Krieger LLP (BB&K) I am pleased to present this proposal to serve as General Counsel to the Orange County Power Authority (Authority). Community choice energy is a critical tool in restructuring the energy economy and addressing climate change. It provides retail choice in monopoly electric markets, allows communities local control of their energy supply, increases needed economic development options, and drives sustainability efforts. As this letter demonstrates, BB&K offers the experience required to advise the Authority in its early stages as a joint powers authority (JPA) and the depth of knowledge and resources to work with the Authority as an essential community choice aggregator (CCA) and JPA in Orange County.

FIRM OVERVIEW

Established in 1891, BB&K is the most experienced and largest full-service public agency law firm in California; and our attorneys are especially well qualified to provide the highest quality legal representation. Our professionals focus on virtually all practices of law that may confront a public agency. We help public clients successfully maneuver through legal complexities and government mandates. Because BB&K has a history of extensive involvement in all aspects of municipal law, we have pioneered methods to deliver advisory and litigation services in a comprehensive, efficient, and cost-effective manner. BB&K currently provides legal services to over 700 public agency clients in various capacities.

ATTORNEY TEAM

If awarded the work, I will serve as lead attorney and be the main contact person for all matters, will supervise all legal services provided by our firm. My legal practice focuses on all aspects of CCA including feasibility and formation, regulatory matters and advocacy, power procurement,

ATTACHMENT 1 to Item 5



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and public agency governance. In addition to the City of Irvine, I currently provide general and special counsel services to the following CCAs:

- Western Community Energy (Western Riverside), general and special counsel
- Desert Community Energy (Coachella Valley), general and special counsel
- San Diego Community Power (City of San Diego JPA), general counsel and procurement
- Clean Power Alliance (Los Angeles and Ventura Counties), start-up team
- San Jacinto Power and the City of Pomona, formation and membership into California Choice Energy Authority (City of Lancaster program)
- County of San Diego and the City of Santee, CCA feasibility and formation
- San Jose Clean Energy, federal energy regulation
- Cities of Vista, San Marcos, and Escondido, feasibility study
- Various cities in Orange County and throughout the three IOU service territories

Other key team attorneys to assist me are associate **Benjamin Bodell** for general counsel and energy regulatory matters, partner **Glen Price** for power contracting and banking and finance matters, of counsel **Howard Golub** for complex energy matters, and partner **Cynthia Germano** for personnel/human resources matters.

Biographies for these attorneys are attached to this letter.

FIRM QUALIFICATIONS

JPA Counsel

Our attorneys regularly provide general and special counsel services and advise public agency clients on coordination with federal, state, and local agencies that have regulatory and oversight roles related to the activities of JPAs. BB&K, and especially the legal team proposed, is particularly proficient in energy law and power procurement and providing general counsel services to municipalities; JPAs, including CCAs; and other special districts. Our clients rely on us to provide advice on all aspects of how to form, manage, and operate a JPA, from general governance structures and employment and contract issues to complex energy and finance strategies. Most of our attorneys work exclusively for public agencies, and many have previously served as in-house agency counsel. As a result, BB&K attorneys are well equipped to provide legal services to the Authority. We are particularly adept at advising CCAs throughout the state on issues of both local and statewide significance.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

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Energy/Regulatory

BB&K has in-depth understanding of electrical industry restructuring and regulation that affect IOUs, municipal owned utilities, electric service providers, and CCAs. We recognize that the current energy industry is undergoing radical change in retail markets due to the rapid expansion of CCAs and the potential for direct access to be re-opened. Our attorneys have worked with federal and state agencies including the Department of Energy, Federal Energy Regulatory Commission, CPUC, California Energy Commission, California Air Resources Board, local air quality management districts, and state and regional water boards. We are adept in administrative law and agency procedure and understand federal and state energy regulations, RPS, low carbon fuel standards, cap and trade, and applicable investor-owned utility and California Independent System Operator tariffs. The proposed team has actively participated in aspects of California industry restructuring from AB 1890 in the 1990s to the 2000 to 2001 California energy crisis, post-crisis litigation, and restructuring. Our attorneys have been involved in AB-1X, community choice enactments of AB 117, Senate Bill (SB) 790, and SB 350. Today, our team members are involved in matters such as CCA exit fees, microgrids, and other distributed energy resources and transportation electrification.

Our attorneys are well versed in utility related contracts. We have experience with power purchase agreements (PPAs), solar and waste to energy agreements, wind repowering, compressed natural gas (CNG) and renewable natural gas (RNG) projects and procurement, battery storage feasibility, complex public power financing, interconnection, and P3 energy development projects. We have represented counties, cities, school districts, transportation authorities, ports, and private companies in all aspects of energy contracts as well as the negotiation and drafting of professional services agreements, letters of intent, and non-disclosure agreements.

Furthermore, the proposed team has strong positive relationships with many local community and business groups, industry peers and participants, and regulatory agencies. Our firm strives to maintain strong working relationships with business, government, and regulatory communities and is known as a firm that outside entities can work with easily. Ryan, in particular, has worked cooperatively with business and non-governmental organizations and is Vice-Chair of the board of a large cleantech and sustainability trade association. He has positive relationships with energy companies, venture capitalists, universities, and environmental organizations; regulators and environmental groups have praised him for his ability to work cooperatively, even when opposition exists to his clients' programs or proposals.



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Personnel/Human Resources

BB&K provides public employers with a full range of legal counsel and litigation services for all types of workplace issues and needs. A wide range of public sector employers turn to BB&K for representation in all aspects of labor and employment law. When necessary, our lawyers provide a vigorous defense in discrimination, harassment, wrongful termination, wage and hour, and other labor and employment litigation.

Because labor and employment problems often involve high stakes and intense time pressure, we are committed to giving employers highly responsive service. We counsel our clients on all aspects of employment law and human resources management issues, including wage and hour standards, workers' compensation, layoffs, employee termination, discipline matters, and personnel policies. When workplace concerns arise out of the collective bargaining process, we handle contract negotiations; impasse procedures; grievance and arbitration proceedings; union representation proceedings; and unfair labor practice charges before local, state, and federal agencies.

Our attorneys regularly represent employers before the National Labor Relations Board, the Public Employment Relations Board, the California Department of Fair Employment and Housing, the U.S. Equal Employment Opportunity Commission, the U.S. Department of Labor and State Labor Commissioner, and the Division of Occupational Safety and Health as well as before public agency personnel boards and civil service commissions. We are committed to being a part of the solution to our employer clients' labor issues whether through counseling, negotiations, or litigation.

RATES

General Legal Services

For general legal services, we propose the following a rate of \$335 per hour for Partners and Of Counsel, \$285 per hour for Associates, and \$175 per hour for Paralegals.

General legal services will include attendance at meetings, agenda and document review, routine contracts, government ethics and open meetings laws, and entity incorporation.

Special Legal Services

If needed, for special legal services, we propose a rate of \$415 per hour for Partners and Of Counsel, \$325 per hour for Associates, and \$175 per hour for Paralegals.

Special legal services includes complex matters such as regulatory advice and advocacy, power procurement, litigation, CEQA document review, public finance, and other complex matters.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

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Reimbursements

BB&K does not charge for routine word processing, legal assistants, clerical costs, administrative support staff, secretarial costs, and office costs, including telephone and fax charges. Reimbursement of costs advanced by BB&K on behalf of the client as well as other expenses will be billed at actual cost. These currently include, but are not limited to, travel costs (mileage) at the IRS authorized rate; actual expenses for being away from our offices on the client business; postage; legal research; and any cost of printing or reproducing documents, photographs, or other items necessary for legal representation.

CONCLUSION

We appreciate your consideration of our proposal to serve as General Counsel. Please let me know if I can answer any questions you may have or if you would like to further discuss our qualifications.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ryan Baron', with a long horizontal flourish extending to the right.

Ryan M. F. Baron
of BEST BEST & KRIEGER LLP

Enclosures: Resumes

Ryan M.F. Baron



Ryan M.F. Baron
Partner
(949) 263-6568
ryan.baron@bbklaw.com

Services

Air Quality
California Public Utilities
Commission
Energy
Environmental Law & Natural
Resources
General & Special Counsel
Renewable Energy
Water Quality

Education

The Catholic University of
America, Columbus School of
Law, J.D.
San Diego State University, B.A.

Admissions

California

At a Glance

- Ryan provides strategic counsel on energy and environmental law matters.
- He represents clients in front of federal and state agencies and advises on infrastructure development.
- As former senior in-house counsel, Ryan understands the business of government and industry and the need to navigate clients through complex matters with revenue-focused and creative approaches.

Profile

Ryan Baron offers strategic counsel to clients throughout California and the U.S. on utilities regulation, administrative law, environmental law and public agency governance matters. His practice spans regulatory, transactional and business issues in the areas of energy, gas, water quality, air quality, wastewater, solid waste and climate change. He also has extensive experience with project development, entitlement and permitting matters, particularly with respect to large-scale infrastructure.

Energy, Gas & Utilities

Ryan represents clients on utility matters before a number of federal and state agencies as well as on utility transactional, business and governance matters. He represents a number of California community choice aggregators, commonly known as CCAs, and communities exploring CCA on all aspects of formation. This includes governance, implementation, regulatory and procurement matters. Ryan advises clients on forming electric municipal owned utilities and acquiring utility assets, including recent efforts in Colorado. He negotiates regularly with utility companies and advises on utility rules and tariffs. Ryan's previous experience includes advising on telecommunications regulations and projects.

Environmental Law

Ryan has extensive experience under the Clean Water Act, including stormwater regulation, National Pollutant Discharge Elimination System permit compliance, total maximum daily loads and trading and offset programs. He also advises clients on air quality and climate change regulations, such as air permits and California's cap-and-trade program. He previously served as counsel to a large landfill system, and has experience in landfill, solid waste and recycling regulations. He appears regularly before federal and state agencies, including the U.S. Environmental Protection Agency and Army Corps of Engineers, the California state and regional water boards, the California Air Resources Board, CalRecycle and air quality management districts.



Ryan M.F. Baron

Project Development & Permitting

Ryan counsels clients on all aspects of the development of utility and large-scale infrastructure projects with significant experience in contracts and negotiation, including power purchase agreements, financial agreements, municipal cooperative agreements and real estate contracts. He has experience with the development of alternative energy projects, such as waste-to-energy, solar, fuel cell, wind, renewable natural gas and battery storage, as well as with the development of flood control and water facilities, transportation corridors and master-planned developments. Ryan's experience includes funding and finance to real estate and entitlements to procurement and public-private partnerships, where he represents public agencies, land developers, renewable energy developers, an investment fund and start-up technology companies. Ryan has advised on billions of dollars in projects and development.

Government Service

Ryan is a former senior in-house counsel to the County of Orange, one of the largest counties in the nation. In a 70-attorney office, he oversaw the public works and regulatory team and managed outside counsel. Ryan was lead counsel to several large county agencies, including the county public works, flood control district, planning and landfill departments, and was counsel to several joint powers agencies and regional entities. In addition to energy and environmental law work, he advised on open meetings and public records, conflicts of interest, construction, real estate, land use and procurement.

Prior to government service, Ryan practiced in Washington, D.C. with Kellogg, Huber Hansen, Todd Evans & Figel, PLLC working on behalf of Fortune 100 companies on regulatory litigation and federal enforcement actions. During law school, Ryan was a law clerk and junior lobbyist for the global government relations office of an international telecommunications company and was a legal intern in the International Bureau of the Federal Communications Commission and for FCC Commissioner Gloria Tristani. Ryan was editor-in-chief of Catholic University's communications law journal and a graduate of the school's Institute for Communications Law Studies (now the Institute of Law & Technology).

Teaching

Ryan was an adjunct professor at Whittier Law School, where he taught Administrative Law and Energy Law. He has guest lectured at the University of Southern California School of Law, Chapman University School of Law and in the Advanced Power and Energy Program at the University of California, Irvine.

Glen W. Price



Glen W. Price

Partner

(951) 826-8314

glen.price@bbklaw.com

Services

Agri-Business
Business
Business Transactions
Energy
Environmental Law & Natural Resources
Finance & Banking
General & Special Counsel
Intellectual Property
Mergers & Acquisitions
Privacy & Cybersecurity
Real Estate
Renewable Energy
Special Districts

Education

Georgetown University, LL.M.
Seattle University, J.D.
University of California, Los Angeles, B.A.

Admissions

California

At a Glance

- Glen heads BB&K's Renewable Energy practice.
- In response to the drought, Glen helps negotiate agreements for alternative water supply deliveries throughout California.
- Glen works with public and private clients on the drafting and negotiation of contracts for services, technology and the development and financing of critical infrastructure and capital projects.

Profile

Glen W. Price represents private companies and public agencies in complex transactions involving business, real estate, mergers and acquisitions, water resources and renewable energy. He is a partner in Best Best & Krieger LLP's Riverside office.

General Counsel

As general counsel, Glen works regularly with management and staff of private companies and public agencies on the drafting and negotiation of contracts for services, technology and the development and financing of critical infrastructure and capital projects, including the replacement of major software systems. This work includes taking the lead role in the drafting and negotiation of agreements, technology licensing, debt and equity financing arrangements, joint ventures and business and real estate acquisitions. Glen also advises private clients on issues related to corporate formation and governance and works with joint powers authorities, local and regional agencies and tribal governments on inter-agency agreements and internal governance issues.

Renewable Energy

Glen is the leader of the firm's Renewable Energy practice and works with landowners and energy developers throughout the state of California on the installation of solar, wind, biogas and geothermal projects.

Water Resources

In the area of water resources, Glen assists developers, special districts, municipal utilities and mutual water companies on transactions involving the acquisition, development, transportation, storage and delivery of water for industrial and domestic use. Glen has been involved in negotiating agreements for the delivery of alternative water supplies throughout California in response to the ongoing drought.

Glen is active in the Business and International Law sections of the American Bar Association and the State Bar of California.

Glen W. Price



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Partner

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Services

Agri-Business
Business
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Glen is active in the Business and International Law sections of the American Bar Association and the State Bar of California.

Howard Golub



Howard Golub
Of Counsel
 (925) 977-3323
hgolub@bbklaw.com

Services

Business
 California Public Utilities
 Commission
 Energy
 Environmental Law & Natural
 Resources
 Mergers & Acquisitions
 Municipal Law
 Renewable Energy
 Special Districts

Education

Harvard Law School, J.D.
 Hunter College, B.A.
 Naval War College: Senior
 Reserve Officer Course
 MIT Sloan School of
 Management: Executive
 Management Program for
 General Counsel

Admissions

California
 New York

At a Glance

- Howard is a recognized leader among energy law practitioners in California.
- Built on a foundation of decades of experience with both the law and with key decision-makers, Howard consistently develops innovative solutions delivering outstanding results for his clients.
- From 1986 to 1994 he was Vice President and General Counsel of the Pacific Gas and Electric Company.

Profile

Howard Golub provides services to a wide range of clients in the energy industry, including utilities, large consumers, public agencies, independent power producers, and developers of technologies for the production of energy.

Howard's work includes strategic planning, merger and acquisition, utility system creation, franchise agreements, energy project development, contract negotiation and formulation, contract restructuring and alternative dispute resolution. He makes appearances before a variety of federal and state agencies.

Howard focuses on clients' objectives, primarily in the areas of developing new opportunities, improving their competitiveness and defending existing rights through an integrated regulatory-transactional approach. For example, he created a strategy that allowed one client to develop an independent and fully functioning electric distribution enterprise, taking less than six months from conception to operation – an unprecedented and cost-effective solution. Another client was facing financial ruin until Howard developed a regulatory strategy to cure several years of poor decisions by prior management. A third client was saved \$350 million in utility charges.

The energy industry, particularly in California, has been in a state of change for some years and that process will continue – particularly in the areas of price structures, infrastructure development, integration of environmental mandates, transmission access, competition, energy efficiency, renewable energy development, rate design and development of new market entrants. These changes represent significant opportunity for astute market participants.

Representative matters include:

- Creation of new utility systems and counseling developing systems
- Community choice aggregation
- Feasibility studies involving legal, regulatory, operational and financial issues
- Rulemaking proceedings

Howard Golub

- Rate-setting and rate design proceedings
- Discounted power rates
- Utility exit fees
- Utility tariff interpretation and modification
- Power sales agreements, both for sellers and buyers
- Interconnection agreements and transmission access agreements
- Natural gas supply agreements
- Development of renewable resource power projects
- Hydroelectric licensing
- Certificates of public convenience and necessity
- Franchise agreements
- Utility rights-of-way
- Environmental compliance

From 1986 to 1994 Howard was vice president and general counsel of the Pacific Gas and Electric Company, one of the largest energy utility companies in the United States. He reported directly to the Board of Directors and to the chief executive officer and served on the company's Management Committee consisting of the CEO and 10 other senior officers. As chief legal officer of the company, he had extensive experience with all aspects of energy law – regulation, legislation, commercial transactional and litigation. He was also PG&E's lead environmental officer, responsible for environmental policy and for auditing environmental compliance. He formulated and implemented a proactive environmental program which increased competitiveness and earnings, was strongly endorsed by national environmental leaders, and personally awarded the nation's highest environmental medal by the President of the United States.

Prior to entering private practice, Howard was an assistant district attorney for New York County (1968-1969) and an officer in the Judge Advocate General's Corps of the U.S. Navy (1969-1973) where he tried numerous courts-martial and later served as a U.S. Military Judge. After leaving active duty, Howard remained in the Naval Reserves, rising to the rank of captain.

Howard is admitted to numerous federal courts, including the United States Supreme Court.

Cynthia M. Germano



Cynthia M. Germano

Partner

(951) 826-8232

cynthia.germano@bbklaw.com

Services

Business
Labor & Employment
Labor & Employment Litigation
Labor Negotiations & Other
Union Matters
Municipal Law
Public Agency Labor & Employment
Wage & Hour Law
Workplace Safety

Education

Loyola Law School, J.D.
Whittier College, B.A.

Admissions

California

At a Glance

- Cynthia regularly defends employers in both state and federal court over a wide range of employment relationship issues.
- She often presents information to clients and community groups.
- Cynthia is managing partner of BB&K's Riverside office.

Profile

Cynthia Germano has more than 20 years of experience working in partnership with her employer clients on a daily basis to help them manage their employees. She is a partner in Best Best & Krieger LLP's Labor & Employment practice group and the managing partner of the firm's Riverside office.

Advising

Cynthia recognizes that litigation is always the least desirable manner to resolve employer-employee disputes. In an effort to prevent lawsuits from being filed, she regularly advises both private and public employers on all aspects of employee management, including:

- Discipline and termination
- Complaints of harassment
- Employee leave issues including requests for accommodations
- Claims regarding wages
- Drafting and updating employment policies.

Cynthia also represents employers in all levels of grievance and administrative hearings.

Litigation

Despite an employer's best efforts, some employees file lawsuits. Cynthia regularly defends employers in both state and federal court in lawsuits arising out of the employment relationship, including:

- Claims for harassment
- Disability and leave discrimination
- Retaliation
- Wrongful termination
- Unpaid wages
- Breach of contract

Cynthia works with her clients to develop a strategy to defend and dispose of the lawsuits as quickly and efficiently as possible.

Cynthia regularly presents training seminars to her clients and community groups on various employment law issues. She lives on a ranch in Norco with her daughter, five horses and an adorable mini donkey.

Indian Wells
(760) 568-2611

Irvine
(949) 263-2600

Los Angeles
(213) 617-8100

Manhattan Beach
(310) 643-8448

Ontario
(909) 989-8584



BEST BEST & KRIEGER 
ATTORNEYS AT LAW

18101 Von Karman Avenue, Suite 1000, Irvine, CA 92612
Phone: (949) 263-2600 | Fax: (949) 260-0972 | www.bbklaw.com

Riverside
(951) 686-1450

Sacramento
(916) 325-4000

San Diego
(619) 525-1300

Walnut Creek
(925) 977-3300

Washington, DC
(202) 785-0600

Ryan M. F. Baron
(949) 263-6568
ryan.baron@bbklaw.com

December 16, 2020

Board of Directors
Orange County Power Authority

Re: General Counsel and Special Counsel Services for Orange County Power Authority

Dear Board of Directors:

ABOUT OUR REPRESENTATION

Best Best & Krieger LLP is pleased to represent Orange County Power Authority (“OCA”). Specifically, we are pleased to provide General Counsel and Special Counsel legal services to OCA, including:

- Prepare any required legal filings with County or state agencies that may be required by law
- Attendance at the regular Board of Directors (“Board”) meetings and any special meetings and workshops as required by the Chief Executive Officer or Chair of the Board
- Brown Act, Conflict of Interest and Public Records Act advice and representation
- Preparation and/or review of consultant and vendor contracts
- Advice and preparation of documents related to personnel matters
- Advice to the Chief Executive Officer and designated staff on administrative and operational matters
- Research and advice on operational/pubic agency legal questions asked by the Board, Chief Executive Officer and designated staff

ATTACHMENT 2 to Item 5



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Orange County Power Authority
December 16, 2020
Page 2

- Advice and assistance on other legal matters as may be assigned by the Chief Executive Officer
- Advise on and advocate in federal and state regulatory proceedings
- Advise on and negotiate power procurement agreements and financial services matters

Legal services may also include specialized legal services requested by OCPA. This letter constitutes our agreement setting the terms of our representation.

CONFIDENTIALITY AND ABSENCE OF CONFLICTS

An attorney-client relationship requires mutual trust between the client and the attorney. It is understood that communications exclusively between counsel and the client are confidential and protected by the attorney-client privilege.

To also assure mutuality of trust, we have maintained a conflict of interest index. The California Rules of Professional Conduct defines whether a past or present relationship with any party prevents us from representing OCPA. Similarly, OCPA's name will be included in our list of clients to ensure we comply with the Rules of Professional Conduct with respect to your firm.

We have checked the following names against our client index: City of Irvine, City of Fullerton, and the City of Huntington Beach. Under this agreement, an attorney-client relationship is only established with OCPA and not any of its member agencies. Based on that check, we can represent OCPA. Please review the list to see if any other persons or entities should be included. If you do not tell us to the contrary, we will assume that this list is complete and accurate. We request that you update this list for us if there are any changes in the future.

YOUR OBLIGATIONS ABOUT FEES AND BILLINGS

For general legal services, the current rate is \$335 per hour for Partners and Of Counsel, \$285 per hour for Associates, and \$175 per hour for Paralegals. General legal services will include the General Counsel scope of work discussed above as well as attendance at meetings, agenda and document review, routine contracts, government ethics and open meetings laws, and entity incorporation.

Should OCPA desire additional specialized services, the current rate is \$415 per hour for Partners and Of Counsel, \$325 per hour for Associates, and \$175 per hour for Paralegals. Special legal services includes complex matters such as regulatory advice and advocacy, power procurement, litigation, CEQA document review, public finance, and other complex matters.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Orange County Power Authority
December 16, 2020
Page 3

Please note that rates for Howard Golub are \$595 per hour due to his unique background and experience.

Other billing rates are described in the memorandum attached to this letter which is entitled “Best Best & Krieger LLP’s Billing Policies.” It also describes the other aspects of our firm’s billing policies. You should consider the Billing Policies memorandum part of this agreement as it binds both of us. For that reason, you should read it carefully.

INSURANCE

We are also pleased to let you know that Best Best & Krieger LLP carries errors and omissions insurance with Lloyd’s of London. After a standard deductible, this insurance provides coverage beyond what is required by the State of California.

HOW THIS AGREEMENT MAY BE TERMINATED

You, of course, have the right to end our services at any time. If you do so, you will be responsible for the payment of fees and costs accrued but not yet paid, plus reasonable fees and costs in transferring the case to you or your new counsel. By the same token, we reserve the right to terminate our services to you upon written notice, order of the court, or in accordance with our attached Billing Policies memorandum. This could happen if you fail to pay our fees and costs as agreed, fail to cooperate with us in this matter, or if we determine we cannot continue to represent you for ethical or practical concerns.

CLIENT FILE

If you do not request the return of your file, we will retain your file for five years. After five years, we may have your file destroyed. If you would like your file maintained for more than five years or returned, you must make separate arrangements with us.

THANK YOU

On a personal note, we are pleased to continue to represent OCPA. If you have any questions at any time about our services or billings, please do not hesitate to call me.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Orange County Power Authority
December 16, 2020
Page 4

If this letter meets with your approval, please sign and date it, and return the original to us. We have enclosed a separate signed copy of this letter for your records.

Sincerely,

Ryan M. F. Baron
of BEST BEST & KRIEGER LLP

AGREED AND ACCEPTED:

By: _____

Dated: _____

BEST BEST & KRIEGER LLP'S BILLING POLICIES

Our century of experience has shown that the attorney-client relationship works best when there is mutual understanding about fees, expenses, billing and payment terms. Therefore, this statement is intended to explain our billing policies and procedures. Clients are encouraged to discuss with us any questions they have about these policies and procedures. Clients may direct specific questions about a bill to the attorney with whom the client works or to our Accounts Receivable Department. Any specific billing arrangements different from those set forth below will be confirmed in a separate written agreement between the client and the firm.

Fees for Professional Services

Unless a flat fee is set forth in our engagement letter with a client, our fees for the legal work we will undertake will be based in substantial part on time spent by personnel in our office on that client's behalf. In special circumstances which will be discussed with the client and agreed upon in writing, fees will be based upon the novelty or difficulty of the matter, or the time or other special limitations imposed by the client.

Hourly rates are set to reflect the skill and experience of the attorney or other legal personnel rendering services on the client's behalf. Time is accrued on an incremental basis for such matters as telephone calls (minimum .3 hour) and letters (minimum .5 hour), and on an actual basis for all other work. Our attorneys are currently billed at rates from \$255 to \$750 per hour, and our administrative assistants, law clerks, litigation analysts, research analysts, and paralegals are billed at rates from \$70 to \$290 per hour. These hourly rates are reviewed annually to accommodate rising firm costs and to reflect changes in attorney status as lawyers attain new levels of legal experience. Any increases resulting from such reviews will be instituted automatically and will apply to each affected client, after advance notice.

Non-Attorney Personnel: BBK may employ the services of non-attorney personnel under the supervision of a BBK attorney in order to perform services called for in the legal services agreement. The most common non-attorney personnel utilized are paralegals. Other types of non-attorney personnel include, but are not limited to, case clerks, IT analysts, and specialty consultants. The client agrees that BBK may use such non-attorney personnel to perform its services when it is reasonably necessary in the judgment of the responsible BBK

attorney. Hourly fees for non-attorney personnel will be charged at the rate then in effect for such personnel. A copy of BBK's current rates and titles for non-attorney personnel will be provided upon request. Except for paralegals, BBK will not incur more than \$575 in fees for a non-attorney's work on a client matter without first confirming by email or written correspondence with the client the intended use of the non-attorney and the hourly rate for that person.

Fees For Other Services, Costs and Expenses

We attempt to serve all our clients with the most effective support systems available. Therefore, in addition to fees for professional legal services, we also charge separately for some other services and expenses to the extent of their use by individual clients. These charges include but are not limited to, mileage at the current IRS approved rate per mile, extraordinary telephone and document delivery charges, copying charges, computerized research, court filing fees and other court-related expenditures including court reporter and transcription fees. No separate charge is made for secretarial or word processing services; those costs are included within the above hourly rates.

ESI: BBK provides Electronically Stored Information (ESI") services for matters requiring ESI support – typically litigation or threatened litigation matters. BBK shall receive payment for ESI support, if needed, at BBK's then current rates. A copy of BBK's current rates for such services will be provided upon request. BBK shall not incur costs for ESI support on a particular matter without first confirming by email or written correspondence with the client that the client agrees such services are necessary for the matter at hand.

We may need to advance costs and incur expenses on your behalf on an ongoing basis. These items are separate and apart from attorneys' fees and, as they are out-of-pocket charges, we need to have sufficient funds on hand from you to pay them when due. We will advise the client from time to time when we expect items of significant cost to be incurred, and it is required that the client send us advances to cover those costs before they are due.

Advance Deposit Toward Fees And Costs

Because new client matters involve both a substantial undertaking by our firm and the establishment of client credit with our accounting office, we require an advance payment from clients. The amount of this advance deposit is determined on a case-by-case basis discussed first with the client, and is specified in our engagement letter.

Upon receipt, the advance deposit will be deposited into the firm's client trust account. Our monthly billings will reflect such applications of the advance deposit to costs and not to attorney's fees (unless otherwise noted in our accompanying engagement letter). At the end of engagement, we will apply any remaining balance first to costs and then to fees. We also reserve the right to require increases or renewals of these advanced deposits.

By signing the initial engagement letter, each client is agreeing that trust account balances may be withdrawn and applied to costs as they are incurred and to our billings, when we issue our invoice to the client. If we succeed in resolving your matter before the amounts deposited are used, any balance will be promptly refunded.

Monthly Invoices and Payment

Best Best & Krieger LLP provides our clients with monthly invoices for legal services performed and expenses incurred. Invoices are due and payable upon receipt.

Each monthly invoice reflects both professional and other fees for services rendered through the end of the prior month, as well as expenses incurred on the client's behalf that have been processed by the end of the prior month. Processing of some expenses is delayed until the next month and billed thereafter.

Our fees are not contingent upon any aspect of the matter and are due upon receipt. All billings are due and payable within ten days of presentation unless the full amount is covered by the balance of an advance held in our trust account. If a bill is not paid within 30 days, a late charge of one percent per month on the unpaid invoice shall be added to the balance owed, commencing with the next statement and continuing until paid.

It is our policy to treat every question about a bill promptly and fairly. It is also our policy that if a client does not pay an invoice within 60 days of mailing, we assume the client is, for whatever reason, refusing to pay. We reserve the right to terminate our engagement and withdraw as attorney of record whenever our invoices are not paid. If an invoice is 60 days late, however, we may advise the client by letter that the client must pay the invoice within 14 days or the firm will take appropriate steps to withdraw as attorney of record. If the delay is caused by a problem in the invoice, we must rely upon the client to raise that with us during the 14-day period. This same policy applies to fee arrangements which require the client to replenish fee deposits or make deposits for anticipated costs.

From time to time clients have questions about the format of the bill or description of work performed. If you have any such questions, please ask them when you receive the bill so we may address them on a current basis.

Changes in Fee Arrangements and Budgets

It may be necessary under certain circumstances for a client to increase the size of required advances for fees after the commencement of our engagement and depending upon the scope of the work. For example, prior to a protracted trial or hearing, the firm may require a further advance payment to the firm's trust account sufficient to cover expected fees. Any such changes in fee arrangements will be discussed with the client and mutually agreed in writing.

Because of the uncertainties involved, any estimates of anticipated fees that we provide at the request of a client for budgeting purposes, or otherwise, can only be an approximation of potential fees.

BEST BEST & KRIEGER LLP

**ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 6**

To: Orange County Power Authority Board of Directors
From: Power Authority Staff
Subject: APPROVAL OF AGREEMENT WITH EES CONSULTING FOR
COMMUNITY CHOICE ENERGY IMPLEMENTATION SERVICES
Date: December 16, 2020

RECOMMENDATION

Approve professional services agreement with EES Consulting for Community Choice Energy (CCE) implementation services in an amount not to exceed \$150,000 and delegate authority to the Chair to execute.

BACKGROUND

Orange County Power Authority (Authority) will require an experienced consultant to assist with implementation over the next 6-12 months and more. The contract term is December 2020-December 2021.

ANALYSIS AND DIRECTION

EES has assisted several successfully operating CCEs through this phase including Western Community Energy, Clean Power Alliance, San Jose Clean Energy, and East Bay Community Energy. EES will be tasked with the following:

- Draft and File Implementation Plan and Statement of Intent by December 31, 2020;
- Draft and Issue Request for Proposals (RFP) for: Power Supply and Scheduling Services, Data Management and Call Center Services, and Marketing and Outreach;
- Develop and update financial *pro forma*;
- Assist with banking services RFP; and
- Assist with Regulatory Filings and Timeline Updates.

ATTACHMENTS

1. EES Qualifications
2. Professional Services Agreement

PREPARED BY EES CONSULTING

Orange County Power Authority

Proposal for Community Choice Aggregation Implementation Services

December 2020



ATTACHMENT 1 to Item 6



Gary Saleba, Executive Consultant

gary.saleba@gdsassociates.com

cell 425-260-6678

December 4, 2020

Board of Directors
Orange County Power Authority

SUBJECT: Proposal to Provide a Community Choice Aggregation Implementation Services

Dear Directors:

EES Consulting (EES), a GDS Associates company, is pleased to submit this proposal to the Orange County Power Authority (OCPA) to provide a Community Choice Aggregation (CCA) Implementation Services. EES has served multiple CCAs during the start-up phase across all three Investor-Owned Utility service territories. We have assembled a team of highly qualified staff to work directly with OCPA. The collective experience of our staff ensures that the OCPA launch will be successful as we will manage uncertainties and provide professional consulting advice. In particular, OCPA will benefit directly from Barbara Spoonhour's experience as past director of Western Community Energy CCA.

EES has significant experience in the CCA community. We have previously prepared CCA Feasibility Analyses, Business Plans, and/or Implementation Plans for the Counties of Butte, San Diego, Los Angeles, Alameda, and Ventura; the San Bernardino Associated Governments; the Coachella Valley Association of Governments; the Western Riverside Council of Governments; the City of San José; the cities of Encinitas, Carlsbad, Del Mar and Oceanside; the cities of Chula Vista, La Mesa, Santee; the Cities of Vista, San Marcos and Escondido; and the City of Irvine. EES has provided start-up services to Clean Power Alliance, San Jose Clean Energy, East Bay Community Energy, Western Community Energy, and Butte Choice Energy Authority. EES has also provided CCA Feasibility Peer Review services for the City of Solana Beach, the City of San Diego, and King City. EES has also provided CCA advice to the South San Joaquin Irrigation District and Nevada Irrigation District. Finally, EES is an ongoing participant in numerous CCA-related regulatory proceedings at the California Public Utility Commission (CPUC), including the Power Charge Indifference Adjustment (PCIA) and Resource Adequacy (RA) proceedings.

Please find enclosed our qualifications and proposed scope of work. We look forward to working with the OCPA and hope to hear back from you at your earliest convenience. In the meantime, feel free to call with any questions.

Very truly yours,

Gary Saleba

Executive Consultant, EES Consulting

570 Kirkland Way, Suite 100 Kirkland WA 98033

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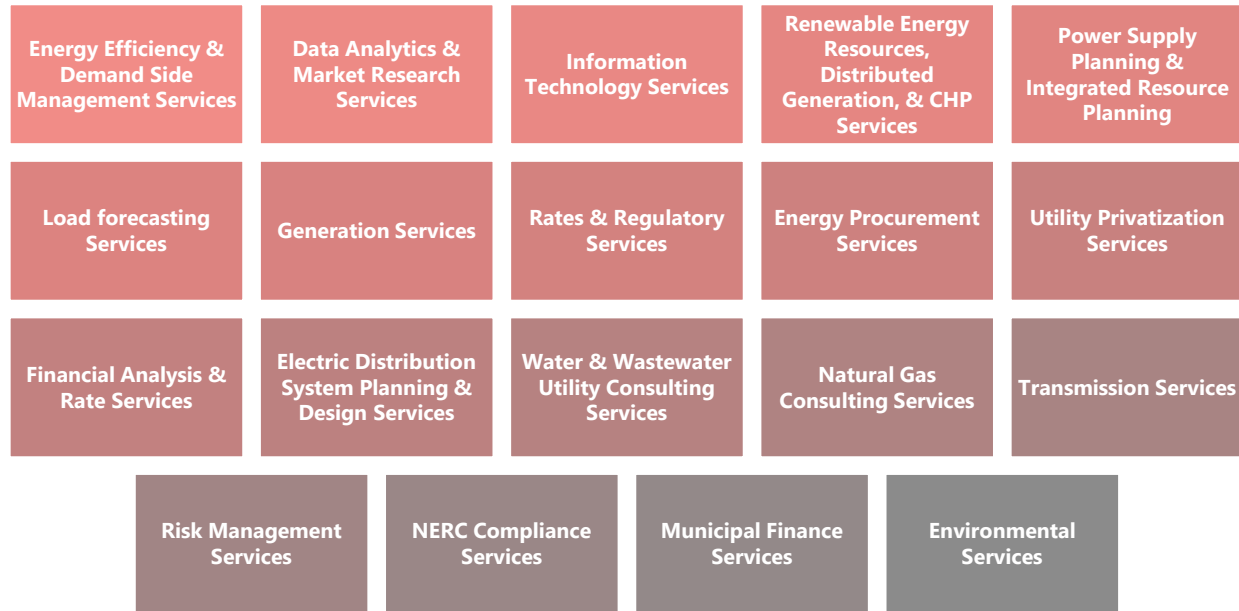
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1 Experience

The EES Consulting staff, a GDS Associates company, has extensive engineering, rate, regulatory, compliance, and expert testimony experience. EES senior staff members are recognized leaders in their fields, dedicated to their clients, and innovative in their approach to delivering quality consulting services that satisfy client needs. **Figure 1-1** presents the consulting service areas in which EES and GDS have specialized skills. For more information please visit our website at gdsassociates.com.

Figure 1-1 EES/GDS Consulting Service Areas



1.1 SELECTED CALIFORNIA EXPERIENCE

EES brings more than 40 years of experience in effectively helping our clients navigate and even shape California’s energy and electrical markets. EES has extensive experience in assisting municipal electric utilities and local government jurisdictions in California with a host of CCA and electric utility engagements. EES staff continually participate and monitor CPUC proceedings related to CCA issues, such as SCE ERRA filing (A.20-07-004), SCE’s request to implement a new non-bypassable charge for Biomass (R 08-08-009), Distributed Energy Resources proceeding (R.14-10-003), Energy Storage & PCIA proceedings, IRP & Long-Term Procurement Planning proceeding (R.16-02-007), and Energy Efficiency proceeding (R.13-11-005).

1.1.1 Utility Cost of Service and Rate Design

EES staff has performed over five hundred electric, natural gas, water, wastewater and stormwater rate studies throughout the U.S. and Canada. We have earned a national reputation in these areas by assisting utilities, end use customers, associations and regulatory commissions in developing automated average embedded and marginal cost of service studies, and in analyzing various cost allocation structures and frameworks. EES staff has conducted numerous time differentiated average embedded and marginal cost of service rate studies. In addition, EES is at the forefront in development of unbundled cost of service studies for utilities as they prepare to provide correct price signals to customers. For example, EES has

performed retail revenue requirement, cost of service, and rate design studies for the Municipal Electric Utilities in Palo Alto, Anaheim, Pasadena, Glendale, Alameda, Roseville, and Colton. EES has recently completed engineering/operations studies for the Riverside and Burbank electric systems. A management and operational staff audit was performed by EES on behalf of the Turlock Irrigation District. EES has prepared several specific rate design studies for net energy metering and green power rates for the Cities of Lodi, Roseville, Palo Alto, and Truckee-Donner PUD.

1.1.2 Planning & Evaluation

EES has provided expert testimony for the prudence of the operations and financial accounting for the City of Redding’s power supply planning and operations department. EES also helped the municipalities of Moreno Valley, Corona, Coachella, San Marcos, Palm Desert, Indian Wells, Palm Springs, Cathedral City, and Desert Hot Springs evaluate the formation of a municipal electric utility. This analysis included the forecast of wholesale electric power cost forecast, including delivery costs, as well as the development of each electric utility’s power supply costs and non-power supply costs in order to determine the electric utility power revenue requirement and cost of service.

1.1.1 Distributed Generation

Our team regularly evaluate solar and battery storage for clients across the U.S. Our services include economic evaluation of net metering tariffs and a full benefits analysis of suitable solar and energy storage systems, review of economic development and resiliency benefits of solar and energy storage in times of economic stress such as the current COVID-19 pandemic, valuation of utility-scale and distribution solar (photovoltaics and solar thermal) and energy storage options to identify “best fit” for locations, creation and cost analysis of solar system layouts for fixed tilt, single-axis tracking, rooftop and parking canopy systems, estimation of solar energy system output based on both satellite and TMY3 weather data, various modules, inverter and racking types, Inverter Loading Ratios (ILR), Ground Coverage Ratios (GCR), and other standard design aspects, development of energy storage system designs based on specific client use cases, review and/or development requirements for solar and battery storage interconnection to utility distribution/transmission systems or industrial applications, assistance in evaluating solar and energy storage proposals made to public power utilities, assistance in negotiating key contractual requirements for solar and energy storage systems, assistance in development of utility clean energy “Integrated Resource Plans” and RPS compliance plans, monitoring market developments on matters related to solar, battery storage, and electric vehicle integration, including emerging technologies, transactive energy market design, resource adequacy, and regulation/frequency control.

1.2 CCA EXPERIENCE

Project Name	<i>CCA Feasibility, Implementation Services</i>	
Company Name	<i>Western Community Energy</i>	
Contact Name & Title	Tyler Masters, Director	
Phone	(951) 203-6281	Email Tmasters@wrcog.us
Project Description & Work Deliverables		
EES has provided several technical services to Western Community Energy (WCE) from feasibility analysis prior to implementation to developing WCE’s first retail rates. Initially, EES developed the feasibility proformas demonstrating the financial benefits of community choice aggregation. The pro forma analysis considered forecast SCE generation rates and power charge indifference adjustment rates, forecast power supply costs, and load analysis. The feasibility study was prepared for the		

Western Riverside Council of Governments along with two other council of governments including **Coachella Valley Associated Governments**, and **San Bernardino Associated Governments**.

In 2019, EES developed a rate model for WCE that utilized customer-specific billing determinants and SCE rate structures to produce retail rates for WCE customers. The model was developed and rates were set 3 months prior to knowing final SCE rates at the time of WCE launch. EES accurately estimated SCE rates 3 months in advance based on ERRA filings and general rate case information. The final 2020 WCE rates provided an approximate 2% bill discount for WCE customers compared with bundled SCE service. These rate savings were the target for WCE since its initial implementation plan was filed in December 2018. EES continues to assist WCE in rate matters and routinely evaluates WCE rates each time SCE makes an update.

Project Name	<i>CCA Feasibility and Implementation Services</i>	
Company Name	<i>Butte Choice Energy</i>	
Contact Name & Title	Brian Ring, Interim Executive Director	
Phone	(530) 552-3311	Email bring@countybutte.net
Project Description & Work Deliverables		
EES prepared the feasibility analysis for BCE in 2018 and continued to support the County and City of Chico as they formed a JPA (BCE) in 2019 and began the implementation process in 2020. The feasibility study included many of the same elements requested by Tuolumne County including economic impacts, rate forecasts, load forecasts, financial feasibility, and governance.		

Project Name	<i>CCA Feasibility</i>	
Company Name	<i>Cities of Chula Vista, La Mesa, and Santee</i>	
Contact Name & Title	Cory Downs, Conservation Specialist City of Chula Vista	
Phone	(619) 476-2442	Email cdowns@chulavistaca.gov
Project Description & Work Deliverables		
EES prepared a CCA feasibility analysis for the three cities in 2019. EES presented the study and results to several committees and to each City Council. The study evaluated feasibility from a 3-city JPA perspective as well as for individual City-CCAs. The results of the feasibility study were relied on as each City chose its path to move forward with CCA implementation. The Cities of Chula Vista and La Mesa joined the City of San Diego and other cities to form San Diego Community Power. The City of Santee is considering joining the County of San Diego to form another CCA JPA.		

Project Name	<i>CCA Feasibility</i>	
Company Name	<i>County of San Diego</i>	
Contact Name & Title	Charley Marchesano, Chief, Energy and Sustainability Program	
Phone	(858) 694-2987	Email Charles.marchesano@sdcounty.ca.gov
Project Description & Work Deliverables		
EES prepared a CCA feasibility analysis and Business Plan for the County of San Diego. Additionally, EES has assisted the County in its analysis of renewable energy potential as a supply resource for future CCAs and a market assessment of the value of energy from local renewable resources. The County is planning to begin the implementation process for CCA in early 2021		

Project Name	<i>CCA Feasibility</i>	
Company Name	<i>Cities of Vista, Escondido, and San Marcos</i>	
Contact Name & Title	John Conley, Director of Community Development and Engineering, City of Vista	
Phone	(760) 643-5388	Email jconley@ci.vista.ca
Project Description & Work Deliverables		
EES is finishing up a technical feasibility study for the three cities. The study was delayed from the Spring of 2020 due to the initial rate filings by SDG&E made in April.		

Project Name	<i>CCA Feasibility</i>	
Company Name	<i>City of Irvine</i>	
Contact Name & Title	Mark Steuer, Director	
Phone	(949) 724-7365	Email msteuer@cityofirvine.org
Project Description & Work Deliverables		
EES finalized the City’s feasibility study in January 2020 after updating per the annual Edison rate changes published in late 2019. The Irvine study included the same technical rigor of other EES studies and was peer reviewed in April 2020. The peer review emboldened the City to move forward with coordinating a County-wide CCA effort. EES continues to assist the City and other interested jurisdictions in educating city councils on the Orange County Power Authority. EES will develop the OCPA Implementation Plan to be filed before the end of 2020.		

Project Name	<i>Cost of Service and Rate Design</i>	
Company Name	Central Coast Community Energy (Formerly Monterey Bay Community Power)	
Contact Name & Title	Tom Habashi, CEO	
Phone	(831) 313-5557	Email thabashi@mbcommunitypower.org
Project Description & Work Deliverables		
EES prepared an electric cost of service study which included evaluation of the CCA’s revenue requirement and forecast sales as the CCA planned to expand membership. A rate design study was prepared and rate recommendations made based on upcoming PG&E rate level and structure changes. Ultimately, impacts of PCIA rate changes and COVID-19 made the timing challenging for CCCE to adopt new rates. EES assisted CCCE in developing a rate rider to recover COVID-19 related impacts to revenues.		

Project Name	<i>CCA Feasibility Peer Review</i>	
Company Name	City of San Diego	
Contact Name & Title	Cody Hooven, Chief Sustainability Officer	
Phone	(619) 236-6563	Email chooven@sandiego.gov
Project Description & Work Deliverables		
<p>EES conducted a peer review of the City’s Feasibility Study in 2018. EES carefully reviewed the rate forecasts and CCA operating expenses to confirm the finding that the CCA is feasible. EES provided comment that the rate forecasts and projected rate savings were somewhat optimistic, but that there was significant room for the CCA to operate economically.</p>		

Project Name	<i>CCA Feasibility Study</i>	
Company Name	Cities of Carlsbad, Del Mar, Encinitas, and Oceanside	
Contact Name & Title	Jason Haber, Intergovernmental Affairs Director, City of Carlsbad	
Phone	(760) 434-2958	Email Jason.haber@carlsbadca.gov
Project Description & Work Deliverables		
<p>EES prepared a CCA feasibility analysis for the four cities in 2018/2019. EES presented the study and results to several committees and to each City Council. The study evaluated feasibility from a 4-city JPA perspective as well as for individual City-CCAs. The results of the feasibility study were relied on as each City chose its path to move forward with CCA implementation. The City of Encinitas joined the City of San Diego and other cities to form San Diego Community Power. The Cities of Carlsbad and Del Mar Formed a new CCA with Solana Beach. The City of Oceanside is considering moving forward with a different set of cities in San Diego County.</p>		

Project Name	<i>CCA Feasibility Study and Implementation Services</i>	
Company Name	City of San Jose, San Jose Clean Energy	
Contact Name & Title	Julie Benabente, Energy Officer	
Phone	(408) 975-2537	Email Julie.benabente@sanjoseca.gov
Project Description & Work Deliverables		
<p>EES prepared a CCA feasibility analysis for the four cities in 2018/2019. EES presented the study and results to the City Council. In addition to the rigorous feasibility study analysis, EES prepared supporting information assisting the City in CCA business planning and launch. Services included Project scheduling, tracking of the deliverable schedules, budget tracking, coordination and weekly communication with the City Project Manager, internal coordination among Consultant and subconsultant staff, financial modeling and training of SJCE staff on financial model including power cost projections, operating costs, PG&E rates, PCIA assumptions, phase-in strategies, load forecast and coordination with PG&E, binding notice of intent, resource adequacy purchase evaluation, and on-call technical assistance.</p>		

Project Name	<i>CCA Feasibility Study Peer Review</i>	
Company Name	East Bay Community Energy (Alameda County)	
Contact Name & Title	Nick Chaset, CEO	
Email	nchaset@ebce.org	
Project Description & Work Deliverables		
EES peer reviewed the EBCE technical feasibility study in 2017. EES prepared the EBCE implementation plan filing and continued to assist EBCE through the start-up and launch phase by providing load forecasts, power supply costs and pro forma updates, budgeting, and board meeting support.		

Project Name	<i>CCA Feasibility Study and Implementation Services</i>	
Company Name	Clean Power Alliance	
Contact Name & Title	Gary Gero, Chief Sustainability Officer	
Phone	(213) 974-1160	Email ggero@ceo.lacounty.gov
Project Description & Work Deliverables		
EES prepared a CCA feasibility analysis for the entire LA County area in 2016. EES presented the study and results to the LA County Board of supervisors and attended multiple city council meetings to present the findings and answer questions on CCA feasibility. As a result of our efforts, CPA became the largest CCA in the state. In addition to the rigorous feasibility study analysis, EES prepared supporting information CPA in business planning and launch. Services included project scheduling, tracking of the deliverable schedules, budget tracking, coordination and weekly communication with the interim Executive Director, internal coordination among Consultant and subconsultant staff, financial modeling and training of CPA staff on financial model including power cost projections, operating costs, SCE rates, PCIA assumptions, phase-in strategies, load forecast and coordination with SCE, binding notice of intent, resource adequacy purchase evaluation and contract negotiation, issued and evaluated several request for proposals for power supply providers, marketing, and financial services, and provided on-call technical assistance.		

Project Name	<i>CCA Feasibility Study</i>	
Company Name	Nevada Irrigation District	
Contact Name & Title	Keane Sommers, Hydroelectric Manager	
Phone	(530) 273-8571	Email sommers@nidwater.com
Project Description & Work Deliverables		
EES prepared a high-level CCA feasibility analysis NID in 2018 and provided advice in CCA formation, timeline, and the various risks and uncertainties. NID considered both CCA and condemnation of PG&E facilities.		

Project Name	CCA Feasibility Study	
Company Name	South San Joaquin Irrigation District	
Contact Name & Title	Bere Lindley, Assistant General Manager	
Phone	(209) 249-4622	Email blindley@ssjid.com
Project Description & Work Deliverables		
EES prepared a high-level CCA feasibility analysis for SSJID in 2018 and provided advice in CCA formation, timeline, and the various risks and uncertainties. EES also assisted SSJID in submitting an offer to purchase PG&E distribution facilities during the 2019 bankruptcy proceedings.		

1.3 SELECTED OTHER MUNICIPAL AND COUNTY CLIENTS

In addition to our CCA clients, EES also works with a wide range of municipal and county governments in California, as well as publicly-owned utilities, including:

- Anaheim Public Utilities
- City of Corona
- City of Glendale
- City of Moreno Valley
- City of Needles
- City of Redding
- City of Roseville
- City of San Bernardino
- City of San Marcos
- City of Palo Alto
- Truckee-Donner PUD
- Sacramento Municipal Utility District
- Los Angeles Department of Water & Power
- Surprise Valley PUD
- Imperial Irrigation District
- City of Pasadena
- City of Burbank
- City of Irvine
- City of Santa Ana
- Del Norte County
- City of Lodi

As stated above, we have provided start-up services to many CCA clients in California. The scope of this project is very similar to the scope of work we have provided for other jurisdictions including rate forecasts and comparisons, pro forma analysis, rate design, Implementation Plan development, request for proposal management, banking support, binding notice of intent and material preparation for board packets and presentations.

2 Project Staff

2.1 EES PROJECT TEAM

EES, a GDS Associates company, has a team of consultants that have significant experience with CCA Feasibility and other services. As shown in **Table 2-1**, our project team is comprised of folks that can provide technical expertise in CCA start-up activities. Gary Saleba will serve as Project Lead and Point of Contact for OCPA on this project. As noted above, Gary has led the EES team in providing CCA services for numerous clients across California.

TABLE 2-1: EES PROJECT TEAM

Personnel	Title	Project Role
Gary Saleba	Executive Consultant	Project Lead
Howard Choy	Executive Consultant	Outreach
Barbara Spoonhour	Executive Consultant	Financial Model Manager
Amber Nyquist	Manager	Financial Model Manager

In addition to the key EES project team members, GDS has a wide array of engineers and analysts in various departments that are able, if necessary, to support the work of the key project team members. **Table 2-2** demonstrates the depth and breadth of GDS’ employees by outlining the number of employees by department.

TABLE 2-2: GDS DEPARTMENTS AND NUMBER OF EMPLOYEES

Department Name	# of Employees
Power Supply	15
Transmission & NERC Compliance	12
Retail / Wholesale Rates	10
Regulatory Support	9
DSM / Energy Efficiency	42
Load Forecasting / Statistical Analysis	3
Distribution / Substation Engineering	27
Generation Services	8
RTO / ISO Markets	4

Gary Saleba, *Executive Consultant* • Gary Saleba has over 40 years of experience in providing consultant services to electric power utilities. Gary started EES in 1978 and has worked for our electric power utility clients ever since. Gary’s areas of specialty include overall quality control for EES’s projects as well as development of corporate management, financial and strategic planning models primarily for electric, natural gas and water utilities. He has extensive experience in the areas of utility rate design, revenue requirement analysis, cost of service, financial planning, management audits, professional development educational seminars, marketing, consumer research, forecasting, integrated resource planning, cost-benefit analyses, overall strategic planning, and mergers and acquisitions. Having worked as a utility employee, Gary combines an extensive background as both a utility industry expert and a management consultant. Gary has participated in numerous generic utility proceedings, testified before over 200 regulatory bodies and courts of law and coordinated over 500 financial planning, rate study,

resource acquisition, and strategic planning studies. Gary has led every CCA study EES has completed in California.

Barbara Spoonhour, *Executive Consultant* • Ms. Spoonhour holds a Bachelor of Science from the University of Phoenix and has over 20 years of experience developing, promoting, and implementing environmental and energy programs with local and regional governments in California. She recently retired after 19 years from Western Riverside Council of Governments (WRCOG), as Deputy Executive Director, where she led the way to implement the largest Property Assessed Clean Energy (PACE) Program in the County (HERO and California HERO). Ms. Spoonhour oversaw the Western Riverside Energy Partnership, which was a public-private partnership with Southern California Edison and Southern California Gas Company that promoted jurisdictional leadership for the promotion of energy efficiency. Many of the Programs that she oversaw were state funded and had extensive tracking and reporting requirements. Most recently, Ms. Spoonhour worked over 4 years to bring Western Community Energy (WCE), a Community Choice Aggregation Program, to fruition. WCE is purchasing energy and saving residents and businesses over \$6 million annually on their utility bills in the cities of Eastvale, Hemet, Jurupa Valley, Norco, Perris, and Wildomar. She has experience working with the California Public Utilities Commission and investor owned utilities. Additionally, Ms. Spoonhour has legislation and regulatory experience.

Howard Choy, *Executive Consultant* • Mr. Choy has been providing executive and strategic leadership for large-scale energy projects and portfolios throughout his 30-year career. Howard's experience includes the incorporation of a wide variety of sustainability initiatives, including energy efficiency, demand response, generation and storage. His most impactful role was the creation of the Office of Sustainability for Los Angeles County, which resulted in hundreds of County projects, and thousands of projects among County constituents. While serving as General Manager of the Office of Sustainability for Los Angeles County, and has developed cutting-edge, integrated energy/ water efficiency programs and tools for internal, Los Angeles County building operations. He directed the internal and community energy management programs for their \$200 million annual budget, approximate 3,000 facilities portfolio, and municipal energy operations including automation of billing, meter and other data systems; building project evaluation programs; procurement and contracting programs; and internal and external financing protocols. He implemented systems and programs to identify, evaluate and manage the implementation of hundreds of clean energy projects in County facilities and locations.

Amber Nyquist, *Manager* • Amber Nyquist provides analytical expertise for EES in support of economic and financial studies. She offers experience and knowledge to a wide range of topics related to regulated utilities. Her background includes cost of service analysis, electric rate design, wholesale rate setting, and other power supply costs or related information. Amber has significant rate and cost of service experience on the West Coast where she supports clients in cost of service methodology and special rate design considerations including electric vehicle, microgrid or all electric rates, net energy metering, critical peak pricing, and others. Amber's community choice aggregation experience means she is also well versed in rate structures used by California investor-owned utilities, regulatory filing requirements, and implementation needs. Amber has led the EES team's technical efforts for all of EES's CCA work product.

3 Scope of Services

The proposed scope is split into two sections: Base Services and As Needed Services. Each is described below. The Base services are the tasks that will be required of OCPA and performed by EES.

3.1 BASE SERVICES

Service	Description
Implementation Plan and Statement of Intent	Develop and file Implementation Plan and Statement of Intent.
Develop and Issue Request for Proposals for CCA Services	Power Supply and portfolio management, Data Management and Customer Service Call Center, Marketing and Outreach. Draft RFP for each service and distribution lists. Finalize RFPs, send to prospective bidders, manage Q&A, submissions and proposal review and evaluation processes.
Meet and Confer Process with SCE	Coordinate load forecast with SCE prior to April 2021 filing.
CPUC Registration	Develop materials needed to register the CCA within 90 days of Implementation Plan filing.
Design Retail Rates	Prior to launch, retail rates will be designed to target revenue projections and rate discounts approved by the Board of Directors. Retail rates will consider current vintaged PCIA rates, net energy metering).
Prepare CCA Budget	Develop draft implementation budget for pre-launch operations.
Maintain Schedule	The Implementation Schedule will be managed and included in the packet for each Board Meeting.

3.2 AS NEEDED SERVICES

As Needed services are provided at the request of the Board and/or Executive Director to support CCA implementation.

Service	Description
Pro Forma Update	Changes in power markets, SCE retail rates, load and phasing scenarios will be modeled to support CCA operation. Cash flow and operating reserve margins will be updated and provided to support banking services.
Board Packet and Presentation Materials	Manage and prepare board packet information prior to each board meeting.
Banking Support	Financial material needed to support banking services RFP and negotiations including cash flow analyses and pro forma documentation.
Binding Notice of Intent	Provide technical assistance to enter Binding Notice of Intent with SCE.
Regulatory Services	Develop and file RPS Compliance Report, RPS Procurement Plan, Year Ahead Resource Adequacy filings.
Other Technical Services	Monitor relevant SCE filings and prepare staff reports.

Additional As Needed services may be identified as the implementation process moves forward. EES has staff available to assist with anything CCA-related and can support OCPA as the planning and operational environment changes.

4 Cost

EES bills its clients on a time and materials basis. EES’s hourly rates are as provided below. These rates are in effect through December 31, 2021.

Executive Consultant/Senior Consultant.....	\$265
Manager/Senior Project Manager.....	230
Senior Analyst/Engineer	200
Analyst/Engineer	170
Senior Administrative Assistant	120

It is estimated that EES can undertake the Basic and As Needed Consulting services through OCPA launch for a not to exceed labor budget of \$150K.

Any out-of-pocket travel expenses incurred in conjunction with supporting OCPA will be billed to OCPA and in addition to labor costs. Out-of-pocket expenses will be minimal for this undertaking.

**ORANGE COUNTY POWER AUTHORITY
PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement (“**Agreement**”) is made and entered into this _____ day of _____ 20____, by and between ORANGE COUNTY POWER AUTHORITY, a California joint powers agency (“**Authority**”) and [INSERT NAME OF CONSULTANT], a [INSERT TYPE OF ENTITY] (“**Consultant**”). Authority and Consultant are sometimes individually referred to as “**Party**” and collectively as “**Parties.**”

RECITALS

A. Consultant desires to perform and assume responsibility for the provision of certain professional services required by Authority on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing [INSERT TYPE OF SERVICES], is licensed in the State of California [IF APPLICABLE], and is familiar with the plans of Authority.

B. Authority desires to engage Consultant to render such professional services for the [INSERT BRIEF PROJECT DESCRIPTION] (“**Project**”) as set forth in this Agreement.

AGREEMENT

1. Scope of Services and Term.

1.1 General Scope of Services. Consultant promises and agrees to furnish to Authority all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the [INSERT BRIEF DESCRIPTION OF SERVICES TO BE PERFORMED] services necessary for the Project (“**Services**”). The Services are more particularly described in Exhibit A attached hereto, and which are stated in the proposal to Authority. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto, and all applicable local, state and federal laws, rules and regulations.

1.2 Term. The term of this Agreement shall be from [INSERT START DATE] to [INSERT ENDING DATE; RECOMMEND AT LEAST ONE YEAR], unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines.

2. Responsibilities of Consultant.

2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Authority retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the term of

this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of Authority and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

2.2 Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit B attached hereto. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, Authority shall respond to Consultant's submittals in a timely manner. Upon request of Authority, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of Authority.

2.4 Substitution of Key Personnel. Consultant has represented to Authority that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of Authority. In the event that Authority and Consultant cannot agree as to the substitution of key personnel, Authority shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to Authority, or who are determined by the Authority to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the Authority. The key personnel for performance of this Agreement are as follows:

[INSERT NAME(S) OF KEY PERSONNEL]

2.5 Authority's Representative. Authority hereby designates **[INSERT NAME OR TITLE]**, or his or her designee, to act as its representative for the performance of this Agreement ("**Authority's Representative**"). Authority's Representative shall have the power to act on behalf of Authority for all purposes under this Agreement. Consultant shall not accept direction or orders from any person other than Authority's Representative, or designee.

2.6 Consultant's Representative. Consultant hereby designates **[INSERT NAME]**, or his or her designee, to act as its Representative for the performance of this Agreement ("**Consultant's Representative**"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his or her best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures

and for the satisfactory coordination of all portions of the Services under this Agreement.

2.7 Coordination of Services. Consultant agrees to work closely with Authority staff in the performance of Services and shall be available to Authority's staff, consultants and other staff at all reasonable times.

2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and sub- contractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from Authority, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its subcontractors who is determined by Authority to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to Authority, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

2.9 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to Authority, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold Authority, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

2.10 Insurance.

2.10.1 Time for Compliance. Consultant shall not commence the Services under this Agreement until it has provided evidence satisfactory to Authority that it has secured all insurance required under this section, in a form and with insurance companies acceptable to Authority. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to Authority that the subcontractor has secured all insurance required under this section.

2.10.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease.

2.10.3 Professional Liability. **[INCLUDE ONLY IF APPLICABLE - DELETE OTHERWISE]** Consultant shall procure and maintain, and require its subcontractors to procure and maintain, for a period of five (5) years following completion of the Services, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$2,000,000 per claim. **[INCREASE IF NECESSARY - OTHERWISE LEAVE AS IS AND DELETE THIS NOTE]** This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

2.10.4 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by Authority to add the following provisions to the insurance policies:

(A) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) Bodily Injury and Property Damage; (2) Personal Injury/Advertising Injury; (3)

Premises/Operations Liability; (4) Products/Completed Operations Liability; (5) Aggregate Limits that Apply per Project; (6) Explosion, Collapse and Underground (UCX) exclusion deleted; (7) Contractual Liability with respect to this Agreement; (8) Broad Form Property Damage; and (9) Independent Consultants Coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

(iii) The policy shall give Authority, its directors, officials, officers, employees, and agents insured status using ISO endorsement forms 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be “primary and non-contributory” and will not seek contribution from Authority’s insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(B) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) Authority, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects Authority, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant’s scheduled underlying coverage. Any insurance or self-insurance maintained by Authority, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant’s insurance and shall not be called upon to contribute with it in any way.

(C) Workers’ Compensation and Employers Liability Coverage.

(i) Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and Consultant will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against Authority, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(D) All Coverages. Defense costs shall be payable in addition to the limits set forth hereunder. Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum

insurance coverage requirements and/or limits set forth herein shall be available to Authority, its directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named insured; whichever is greater.

(i) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of Authority (if agreed to in a written contract or agreement) before Authority's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella/excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(ii) Consultant shall provide Authority at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to Authority at least ten (10) days prior to the effective date of cancellation or expiration.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by Authority, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(v) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Authority has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Authority will be promptly reimbursed by Consultant or Authority will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Authority may cancel this Agreement. Authority may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(vi) Neither Authority nor any of its directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by

virtue of this Agreement.

2.10.5 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to Authority, its directors, officials, officers, employees, agents and volunteers.

2.10.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by Authority. Consultant shall guarantee that, at the option of Authority, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects Authority, its directors, officials, officers, employees, agents and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

2.10.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, licensed to do business in California, and satisfactory to Authority.

2.10.8 Verification of Coverage. Consultant shall furnish Authority with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to Authority. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf and shall be on forms provided by Authority if requested. All certificates and endorsements must be received and approved by Authority before work commences. Authority reserves the right to require complete, certified copies of all required insurance policies, at any time.

2.10.9 Subcontractor Insurance Requirements. Consultant shall not allow any subcontractors to commence work on any subcontract until they have provided evidence satisfactory to Authority that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors shall be endorsed to name Authority as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, Authority may approve different scopes or minimum limits of insurance for particular subcontractors.

2.10.10 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life-saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3. **Fees and Payments.**

3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit C, attached hereto. The total compensation shall not exceed [INSERT WRITTEN DOLLAR AMOUNT] (\$---) without written approval of Authority's [INSERT TITLE]. Extra Work may be authorized, as described below, and, if authorized, said Extra Work will be compensated at the rates and manner set forth in this Agreement.

3.2 Payment of Compensation. Consultant shall submit to Authority a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. Authority shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by Authority.

3.4 Extra Work. At any time during the term of this Agreement, Authority may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by Authority to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from Authority's Representative.

4. **Accounting Records.** Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of Authority during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

5. **General Provisions.**

5.1 Termination of Agreement.

5.1.1 Grounds for Termination. Authority may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to Authority, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, Authority may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, Authority may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant: [INSERT NAME, ADDRESS & CONTACT PERSON]

Authority: [INSERT NAME, ADDRESS & CONTACT PERSON]

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

5.3 Ownership of Materials and Confidentiality.

5.3.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for Authority to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement (“**Documents & Data**”). Consultant shall require all subcontractors to agree in writing that Authority is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by Authority. Authority shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at Authority’s sole risk.

5.3.2 Intellectual Property. In addition, Authority shall have and retain all right, title and interest (including copyright, patent, trade secret and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or

software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media (“**Intellectual Property**”) prepared or developed by or on behalf of Consultant under this Agreement as well as any other such Intellectual Property prepared or developed by or on behalf of Consultant under this Agreement.

Authority shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether or not paid for wholly or in part by Authority, whether or not developed in conjunction with Consultant, and whether or not developed by Consultant. Consultant will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of Authority.

Consultant shall also be responsible to obtain in writing separate written assignments from any subcontractors or agents of Consultant of any and all right to the above referenced Intellectual Property. Should Consultant, either during or following termination of this Agreement, desire to use any of the above-referenced Intellectual Property, it shall first obtain the written approval of the Authority.

All materials and documents which were developed or prepared by the Consultant for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of the Consultant. However, unless otherwise identified and stated prior to execution of this Agreement, Consultant represents and warrants that it has the right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

Authority further is granted by Consultant a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Consultant which is the basis or foundation for any derivative, collective, insurrectional, or supplemental work created under this Agreement.

5.3.3 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of Authority, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use Authority’s name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Authority.

5.3.4 Infringement Indemnification. Consultant shall defend, indemnify and hold Authority, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged

infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by Authority of the Documents & Data, including any method, process, product, or concept specified or depicted.

5.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

5.5 Attorney's Fees. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

5.6 Indemnification.

5.6.1 To the fullest extent permitted by law, Consultant shall defend (with counsel of Authority's choosing), indemnify and hold the Authority, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Authority, its directors, officials, officers, employees, agents or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Authority or its directors, officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse Authority and its directors, officials, officers, consultants, employees, agents and/or volunteers, for any and all legal expenses and costs, including reasonable attorneys' fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the Authority, its officials, officers, employees, agents, or volunteers. This section shall survive any expiration or termination of this Agreement.

5.6.2 If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code § 2782.8), then, and only to the extent required by Civil Code § 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

5.7 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.

5.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in San Diego County.

5.9 Time of Essence. Time is of the essence for each and every provision of this Agreement.

5.10 Authority's Right to Employ Other Consultants. Authority reserves right to employ other consultants in connection with this Project.

5.11 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

5.12 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of Authority. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

5.13 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subcontractors of Consultant, except as otherwise specified in this Agreement. All references to Authority include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

5.14 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

5.15 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

5.16 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

5.17 Invalidity; Severability. If any portion of this Agreement is declared invalid,

illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

5.18 Prohibited Interests. Consultant warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Authority shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of Authority, during the term of his or her service with Authority, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

5.19 Equal Opportunity Employment and Subcontracting. Consultant represents that it is an equal opportunity employer and it shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of applicants, employees, subcontractors, vendors, or suppliers. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Further, Consultant shall provide equal opportunity for subcontractors to participate in subcontracting opportunities.

5.20 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Workers' Compensation, or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

5.21 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

5.22 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

5.23 Subcontracting. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of Authority. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE TO
ORANGE COUNTY POWER AUTHORITY
PROFESSIONAL SERVICES AGREEMENT**

IN WITNESS WHEREOF, the Parties have made and executed this Agreement as of the date first written above.

**ORANGE COUNTY POWER
AUTHORITY**

[INSERT NAME OF CONSULTANT]*

By : _____
Name: _____
Title: _____

By : _____
Name: _____
Title: _____

ATTEST:

Secretary, Authority Board of Directors

APPROVED AS TO FORM:

Authority General Counsel

**A corporation requires the signatures of two corporate officers.*

One signature shall be that of the Chairman of Board, the President or any Vice President, and the second signature (on the attest line) shall be that of the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer of such corporation.

If the above persons are not the intended signators, evidence of signature authority shall be provided to Authority.

EXHIBIT A
SCOPE OF SERVICES

[INSERT]

EXHIBIT B

SCHEDULE OF SERVICES

[INSERT]

EXHIBIT C

COMPENSATION BILLING RATES

<u>Name</u>	<u>Title</u>	<u>Hourly Rate</u>
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**ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 7**

To: Orange County Power Authority Board of Directors
From: Power Authority Staff
Subject: APPROVAL OF CAPITAL LOAN AGREEMENT TO FUND AUTHORITY OPERATIONS
Date: December 16, 2020

RECOMMENDATION

1. Approve Capital Loan Agreement between Authority and City of Irvine.
2. Delegate authority to Chair or Vice Chair to execute agreement.

BACKGROUND

Attachment 1, Exhibit D of the Orange County Power Authority Joint Powers Agreement (Agreement), provides for a capital loan from the City of Irvine to the Orange County Power Authority (Authority) for pre-launch and launch efforts. The Authority needs to execute the Capital Loan Agreement in order to effectuate the City of Irvine's loan to the Authority and ensure proper funding for Community Choice Energy (CCE) program implementation.

ANALYSIS AND DIRECTION

The City of Irvine is providing the necessary funding for the Authority to launch the CCE program on behalf of the Authority's members. The funding takes the form of a Capital Loan Agreement, as defined in Section 5.5 of the Agreement. The Capital Loan Agreement provides for and defines three tranches of funding, including (1) Formation Costs, (2) Pre-launch Costs, and (3) Launch Costs. The City of Irvine has budgeted for and expended certain Formation Costs to explore CCE feasibility, peer review, consultants, legal counsel, and Authority formation costs including drafting and filing the Implementation Plan with the California Public Utilities Commission, in an amount not to exceed \$250,000. The City of Irvine has also committed \$2,500,000 for Pre-launch Costs for working capital needed by the Authority for staffing and consultants to prepare for a projected launch of the CCE program in 2022, with such funds to be transferred to the Authority on January 1, 2021. Lastly, the City of Irvine is committed to provide the necessary cash collateral required in order to obtain a credit facility, projected to be a \$8,000,000-\$20,000,000 loan, needed for additional working capital and collateral necessary for power procurement. The cash collateral to be posted by the City of Irvine

would be approximately \$2,000,000-\$4,000,000, or around 20 percent of the credit facility. The Capital Loan Agreement further provides that the City of Irvine would fund any deficiencies in the credit facility if the Authority was unable to obtain the full amount it needs for such working capital and collateral needs. These additional funds would be subject to an amendment to the Capital Loan Agreement and the reasonable approval of the City of Irvine subject to a demonstration by the Authority through *pro formas* that the Authority is in need of the additional funding.

The Capital Loan Agreement contains a Pre-launch Costs Interest Schedule (Exhibit A) as well as a requirement that the Capital Loan be repaid to the City of Irvine by January 1, 2027.

The City of Irvine executed the Capital Loan Agreement on November 20, 2020. It is recommended that the Authority execute the agreement to ensure timely funding for CCE implementation, and that the Chair or Vice Chair be delegated authority to sign the contract.

FINANCIAL IMPACT

Capital Loan Agreement Repayment Obligation:

- Up to \$250,000 Formation Costs
- \$2,500,000 Pre-launch Costs
- \$2,000,000-\$4,000,000 Launch Costs subject to future credit facility requirements

ATTACHMENT

1. Capital Loan Agreement

EXHIBIT D
FORM OF CAPITAL LOAN AGREEMENT

**AGREEMENT BETWEEN THE CITY OF IRVINE AND THE ORANGE COUNTY
POWER AUTHORITY FOR THE ADVANCE OF FUNDS FOR IMPLEMENTATION
OF A COMMUNITY CHOICE ENERGY PROGRAM**

This Agreement, effective _____ (“**Effective Date**”), is by and between the CITY OF IRVINE, a municipal corporation and charter city (“**City**”), and the ORANGE COUNTY POWER AUTHORITY, a California joint powers authority (“**Authority**”), for the purpose of stating the terms for an advance of funds from the City to be repaid to City by the Authority as provided herein. City and Authority shall be referred to individually as a “**Party**” collectively as the “**Parties**.”

RECITALS

- A. On _____, the Authority was formed by participating Orange County cities, including the City, to administer a community choice aggregation (“**CCA**”) program within the jurisdictional boundaries of its members in Orange County.
- B. Prior to formation of the Authority, the City funded a feasibility study, peer review, and other activities necessary to evaluate the feasibility and implementation of a CCA program. The City also funded certain costs to form the Authority and implement the CCA program for itself and the Authority’s founding members.
- C. As expressly stated in that certain document entitled, *Orange County Power Authority Joint Powers Agreement*, at Section 5.5, which is incorporated herein by this reference, it was agreed upon by the parties thereto that the City would be reimbursed by the Authority for all costs regarding the feasibility and implementation of the CCA program, contingent upon the Authority’s launch of the CCA program.
- D. The City estimates that its costs to study, form and implement the Authority are \$250,000, which include, but are not limited to, costs for its feasibility study, peer review, City staffing, legal costs, member and stakeholder outreach, and formation of the Authority (“**Formation Costs**”).
- E. The City estimates that the Authority will need approximately \$2,500,000 for working capital to pay for implementation costs through a projected launch of the CCA program in 2022 (“**Pre-Launch Costs**”).
- F. The City further estimates that the Authority will need up to an additional \$8,000,000 to \$20,000,000 in the form of a credit facility for operational support and power procurement as well as other cash flow needs, and that any such credit facility may require cash collateral from an Authority member between \$2,000,000 to \$5,000,000 (“**Launch Costs**”).

G. The Parties desire to enter into this Agreement to document the Authority's repayment obligations to the City for all such funds expended on behalf of, or in support of, the formation of the Authority and implementation of the CCA program.

AGREEMENT

NOW THEREFORE, in consideration of their mutual promises and obligations, the Parties hereby agree as follows:

1. **City Loan to the Authority.**

1.1. **Formation Costs.** The Authority acknowledges that the City has expended certain City funds toward Formation Costs and agrees to reimburse the City for such costs in an amount not to exceed \$250,000 dollars, subject to the repayment provisions herein.

1.2. **Pre-Launch Costs.** The City agrees to loan the Authority Pre-Launch Costs in the amount of \$2,500,000 by January 1, 2021, which shall be used by the Authority for working capital costs associated with the Authority's launch, anticipated in 2022.

1.3. **Launch Costs.** The City agrees to post the necessary cash collateral, not to exceed \$5,000,000, in order for the Authority to secure a credit facility for its Launch Costs for additional working capital associated with power procurement and operational support ("**Credit Agreement**"). The City will also provide a loan for Launch Costs if needed by the Authority should a Credit Agreement be unavailable or insufficient to cover the Authority's working capital needs. The terms and conditions of any City loan to the Authority for Launch Costs (excluding the cash collateral requirement above) shall be negotiated and agreed upon in an amendment to this Agreement, subject to the reasonable approval of the Parties. The Authority shall provide the City with the Authority's *pro forma* demonstrating the amount needed for the aforementioned City loan.

1.4. **City Loan Amount.** Formation Costs, Pre-Launch Costs, and Launch Costs shall be collectively referred to herein as "**City Loan Amount.**"

2. **Repayment; Interest.**

2.1. **Repayment Date.** The Authority shall repay the City Loan Amount to City, plus interest, no later than the repayment date, which shall be January 1, 2027. The Parties acknowledge that they may modify the Repayment Date for the Launch Costs in an amendment to this Agreement depending on the terms and conditions of the Credit Agreement.

2.2. **Interest Rate.** In accordance with subsection 2.3, interest shall be paid on all outstanding portions of the City Loan Amount that bear interest. The interest rate on any outstanding amount shall be calculated according to the sum of the following calculation of each respective quarter:

Principal x Quarterly Interest Rate x (No. of Days in Quarter/No. of Days in Year)

Where “**Principal**” is the relevant funding of the City Loan Amount as described herein; “**Quarterly Interest Rate**” is the gross earnings for the respective quarter as reported in the City of Irvine Treasurer’s monthly investment report found on the Treasurer’s website <https://www.cityofirvine.org/administrative-services-department/investment-policies-and-reports> “**No. of Days in Quarter**” is the sum of days of each month that make up each respective quarter; and “**No. of Days in Year**” is 365, except in leap years, in which the number of days in the year shall be 366.

The City Loan Amount shall bear interest as follows:

- a. Formation Costs shall bear no interest whatsoever and shall be repaid to City as reimbursement for out-of-pocket expenses by the Repayment Date.
- b. Pre-Launch Costs shall bear interest beginning January 1, 2021 through the Repayment Date as estimated and set forth on Exhibit A, attached hereto.
- c. Launch Costs for the City’s collateral associated with the Credit Agreement shall bear interest beginning on the effective date of the Credit Agreement. Launch Costs for amendment to this Agreement, as set forth in subsection 1.3, through the Repayment Date.

In the event the City Loan Amount, along with any and all interest owed pursuant to this Section 2, are not repaid by the Repayment Date, any such amounts that remain outstanding shall accrue interest at the rate specified by law for prejudgment interest.

3. City Liability; Hold Harmless; Indemnification.

3.1 City Liability. The Authority acknowledges and agrees that by lending said funds to the Authority, the City does not assume any debt, liability, obligation, or duty whatsoever with respect to the Authority’s operations, liabilities, business, or transactions.

3.2 Hold Harmless/Indemnification. The Authority shall hold harmless, indemnify and defend the City, its elected officials, officers, employees, and agents from and against any and all claims, suits or actions of every kind which arise out of the performance or nonperformance of the Authority’s covenants, responsibilities, and obligations under this Agreement, and which result from the negligent or wrongful acts of the Authority or its board members, officers, employees, or agents. City shall hold harmless, indemnify and defend the Authority, its board members, officers, employees and agents from and against any and all claims, suits or actions of any kind which arise out of the performance or non-performance of the City’s covenants, responsibilities and obligations under this Agreement and which result from the negligent or wrongful acts of the City or its elected officials, officers, employees or agents. In the event of concurrent negligence of the City, its officer or employees, and the Authority, its officers and employees, the liability for any and all claims for injuries or damages to persons

and/or property or any other loss or costs which arise out of the terms, conditions, covenants or responsibilities of this Agreement shall be apportioned according to the California theory of comparative negligence.

4. General Provisions.

4.1. Audit. Prior to January 1, 2023, the City may audit the Authority's expenditure of Pre-Launch Costs to confirm that such expenditures have been made consistent with the purposes of this Agreement.

4.2. Waiver. The waiver by City or Authority of any term, covenant, or condition herein contained shall not be deemed to a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition herein contained.

4.2. Successors and Assigns/Assignment. The terms of this Agreement shall apply and bind the heirs, successors, executors, administrators and assigns of the Parties. No Party may assign this Agreement without the express written consent of the other Party, which shall not be unreasonably withheld.

4.3. Entirety/Amendment. This Agreement contains the entire understanding between the Parties relating to the obligations of the Parties described herein. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the Parties or their respective successors in interest. This Agreement shall not be effective or binding until fully executed by both Parties.

4.4. Venue & Choice of Law. This Agreement shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

4.5. Independent Entities. This Agreement is by and between two independent entities and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, joint employer, or association.

4.6. Authority to Execute Agreement. The Parties each warrant that they have the authority to execute this Agreement and that all actions have occurred, and all necessary approvals or consents have been obtained to allow each party to enter into this Agreement.

4.7. Notices. All notices provided for herein shall be in writing and shall be delivered to the appropriate parties as provided below:

For City: Attn: City Manager
City of Irvine
1 Civic Center Plaza
Irvine, CA 92606

For Authority: TBD

IN WITNESS WHEREOF, Authority and City have executed this Agreement on the date set forth below.

CITY OF IRVINE

Date: 11/20/2020

By: Marianna Marysheva

Title: Interim City Manager

Approved as to Form:

Jeffrey Melching
City Attorney

ORANGE COUNTY POWER AUTHORITY

Date: _____

By: _____

Title: _____

Approved as to Form:

General Counsel

EXHIBIT A
PRE-LAUNCH COSTS INTEREST SCHEDULE

Loan Borrower	Orange County Power Authority	
Loan Amount/Pre-Launch	\$2,500,000	
Loan Start Date	1/1/2021	
Loan Maturity Date	1/1/2027	
Estimated Interest Rate	1.75%	See Note on Interest Rate

	Period Interest	Cumulative Interest
3/31/2021	10,787.67	\$10,787.67
6/30/2021	10,907.53	21,695.21
9/30/2021	11,027.40	32,722.60
12/31/2021	11,027.40	43,750.00
3/31/2022	10,787.67	54,537.67
6/30/2022	10,907.53	65,445.21
9/30/2022	11,027.40	76,472.60
12/31/2022	11,027.40	87,500.00
3/31/2023	10,787.67	98,287.67
6/30/2023	10,907.53	109,195.21
9/30/2023	11,027.40	120,222.60
12/31/2023	11,027.40	131,250.00
3/31/2024	10,877.73	142,127.73
6/30/2024	10,877.73	153,005.46
9/30/2024	10,997.27	164,002.73
12/31/2024	10,997.27	175,000.00
3/31/2025	10,787.67	185,787.67
6/30/2025	10,907.53	196,695.21
9/30/2025	11,027.40	207,722.60
12/31/2025	11,027.40	218,750.00
3/31/2026	10,787.67	229,537.67
6/30/2026	10,907.53	240,445.21
9/30/2026	11,027.40	251,472.60
12/31/2026	11,027.40	\$262,500.00
	Pre-Launch Loan	\$2,500,000.00
	Total Due 1/1/2027	\$2,762,500.00

Note: Interest Rate is based on the average of last six months of interest earned on the City's investment portfolio.

**ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 8**

To: Orange County Power Authority Board of Directors

From: Power Authority Staff

Subject: APPROVE REGULAR MEETING DATE

Date: December 16, 2020

RECOMMENDATION

Approve December 22, 2020 at 10 a.m. for the next meeting of the Orange County Power Authority.

**ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 9**

To: Orange County Power Authority Board of Directors
From: Power Authority Staff
Subject: UPDATE ON POTENTIAL NEW MEMBERS, FILING OF
IMPLEMENTATION PLAN, AND FUTURE AUTHORITY BUSINESS
Date: December 16, 2020

RECOMMENDATION

Receive update and provide direction.

BACKGROUND

In 2018, the City of Irvine contracted with EES Consulting to perform an initial Community Choice Energy (CCE) Feasibility Study, which was completed on January 16, 2020. On June 19, 2020, MRW & Associates completed a Third Party Peer Review of the initial study. After review of the initial study and the peer review, the Irvine City Council directed staff to move forward and work with other Orange County cities to form a CCE Joint Powers Authority (JPA), prepare necessary JPA documentation, and file an Implementation Plan with the California Public Utilities Commission (CPUC) by the end of the year.

On November 20, 2020, the Orange County Power Authority (Authority) Joint Powers Agreement (Agreement) was formally signed by the cities of Irvine and Fullerton and thus formally created the JPA. On December 10, 2020 the City of Huntington Beach voted to join the Authority.

DISCUSSION

Interested Cities

In addition to the cities included in the subject Resolution attached to Item No. 1 of the Authority Board Meeting agenda dated December 16, 2020, we have received interest from the cities of Placentia, Stanton, Santa Ana, and Aliso Viejo in potentially joining the Authority in 2021.

Implementation Plan

The CPUC requires all CCE entities that wish to initiate service to file an Implementation Plan (IP). CPUC regulations largely prescribe the form of the submitted IP. The IP outlines a preliminary overview of what policies, protocols, and financial metrics the CCE will consider. CCEs filing an IP by year-end will be certified to launch 12 months later.

An IP for the Authority must be filed by December 31, 2020 to facilitate a launch any time after January 1, 2022. EES Consulting is currently drafting the Authority IP. This IP will outline key policy decisions to be made by the Authority Board of Directors. It will also update the Authority financial pro forma to include all cities that are Authority Founding Members. The financial pro forma will also include the most recent estimates for Southern California Edison's (SCE) generation costs, power charge indifference adjustment, wholesale market power prices and the final verified SCE load data for each city. This IP will be available for review and approval at the December 22, 2020 Authority Board meeting.

Upcoming Board Meeting Items

The following business will require discussion and/or action at the December 22, 2020 Authority Board meeting (or future meetings as applicable):

1. Agreement with Public Financial Management for a banking and credit services Request for Proposals (RFP)
2. Approve initial budget
3. Approve staffing agreements with member cities that provide staff report
4. Direct EES Consulting to prepare RFPs for portfolio manager and schedule coordinator
5. Appoint interim Treasurer and establish a depository for the JPA
6. Public hearing to approve IP

FISCAL IMPACT

Not applicable