

ORANGE COUNTY POWER AUTHORITY
EMPLOYMENT AGREEMENT
(Chief Operating Officer)

This Employment Agreement (“**Agreement**”) dated as of January 15, 2021 (“**Effective Date**”), is entered into by and between Orange County Power Authority, a California joint powers authority (“**Authority**” or “**Employer**”) and Antonia Castro Graham (“**Employee**”). Authority and Employee may be referred to herein individually as a “**Party**” and collectively as the “**Parties.**” Authority and Employee agree to the following terms and conditions of employment.

1. **TERM.** Employer shall employ Employee from the Effective Date of this Agreement, or as such date as may be decided by the Authority and Employee, but no later than ninety (90) days from the Effective Date, until the employment is terminated in accordance with Section 4 of this Agreement.

2. **POSITION AND RESPONSIBILITIES.**

(a) **Position and Duties.** Employee accepts employment with Employer as Chief Operating Officer (“COO”) and shall perform all services appropriate to that position pursuant to Authority’s Joint Powers Agreement; any resolutions, bylaws, policies, procedures, rules, or other enactments of the Authority Board of Directors; any directions of the Authority Board of Directors; and as otherwise provided by applicable law or regulation. The COO’s duties include, but are not limited to, those set forth in the position description which appears as Exhibit A, attached hereto. Employee shall devote Employee’s best efforts and full-time attention to the performance of Employee’s duties. Employee agrees that Employee has a duty of loyalty and a general fiduciary duty to Authority. Employee shall receive formal direction as to matters of Authority business only from the Board of Directors.

(b) **Hours of Work.** Employee is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the COO position. Employee does not have set hours of work as Employee is expected to be available at all times. It is recognized that Employee must devote a great deal of time to the business of the Authority outside of the Authority’s customary office hours, and to that end Employee’s schedule of work each day and week may vary in accordance with the work required to be performed and in accordance with any specific direction provided by the Authority Board of Directors.

(c) **Outside Activities.**

(i) Employee agrees to devote Employee’s full time and attention to the discharge of Employee’s duties as Chief Operating Officer, except that this provision shall be construed so as to permit Employee to participate in community service, public service, or non-profit activities which, in the opinion of the Board of Directors, do not constitute a conflict of interest and do not unreasonably interfere with the performance of the Employee’s duties as COO, Authority operations, or Authority’s reputation in the community.

(ii) Except upon the prior written consent of the Board of Directors or as stated above in Section 2(c)(i), Employee (during the term of this Agreement) shall not: (A) accept any other employment; or (B) engage, directly or indirectly, in any other business,

commercial, or professional activity (whether or not pursued for pecuniary advantage) that is or may be competitive with Authority that might create a conflict of interest with Authority or that otherwise might interfere with the business and operations of Authority. So that Authority may be aware of the extent of any other demands upon Employee's time and attention, Employee shall disclose in confidence to the Board of Directors the nature and scope of any other business activity in which Employee is or may become engaged during the term of this Agreement (provided, however, that such activity may be subject to public disclosure as required by law or Authority's Conflict of Interest Code). This section shall not be deemed to prohibit passive personal investments.

(iii) The Authority acknowledges and consents that Employee is an employee of California State University, Fullerton and Irvine Valley College as an instructor.

(d) **Work Product.** Employee agrees that all documents and writings of any type produced in the performance of this Agreement shall be the sole property of Authority including all rights therein of whatever kind and whether arising from common or civil law or equity. Upon termination of this Agreement for any reason all such documents and writings produced in the performance of this Agreement shall be transferred to and become the property of Authority upon its request without additional compensation.

3. **COMPENSATION AND BENEFITS.**

(a) **Compensation.**

(i) Base Annual Salary. In consideration of the services to be rendered under this Agreement, Authority shall pay Employee, as base annual salary, One Hundred Eighty-Nine Thousand Dollars (\$189,000.00) per year. This amount shall be paid on a pro rata basis pursuant to the procedures regularly established and as they may be amended by Authority in its sole discretion.

(ii) Merit Adjustments. Upon one (1) year of employment, Employee may be eligible for a merit increase in Employee's base annual salary based upon the results of a performance evaluation and at the exercise of the sole and exclusive discretion by the Board of Directors. The Board, in conjunction with the Chief Executive Officer, may set mutually-agreed upon objectives for each year under this Agreement in order to determine eligibility for a merit increase as part of any performance evaluation.

(b) **Benefits.** Employee shall be entitled to receive the same type and level of benefits afforded by Authority to other Operating staff employees as established from time to time by Authority's Board of Directors, which may include, but not be limited to, health insurance benefits (medical, vision, and dental), retirement benefits, leaves, disability coverage, term life insurance and/or other benefits as they may be modified or amended from time to time. No statement concerning benefits or compensation to which Employee is entitled shall alter in any way the term of this Agreement, any renewal thereof, or its termination.

(i) Paid Leave Accrual. Notwithstanding the above, Employee shall begin his or her employment with a paid time off accrual rate of 220 hours per year and shall be credited with 80 hours of the annual total upon the Effective Date, with the balance accrued over

the subsequent twelve (12) month period. In addition to the paid leave accrual, Employee shall receive 80 hours per year of annual executive leave.

(ii) Interim Stipend for Medical Insurance. Until Authority is able to provide comprehensive medical insurance benefits to Employee, Employee shall receive an in-lieu stipend in the amount of \$1,200 per month, pro-rated by day. Such stipend will terminate upon availability of medical insurance benefits to Employee.

(iii) Interim Stipend for Retirement Contributions. Until Authority is able to join a public retirement system or provide contributions to an employer-sponsored retirement account for the benefit of Employee (in any form as solely determined by Authority), Employee shall receive an in-lieu stipend in the amount of not less than ten percent (10%) of Employee's annual base salary, pro-rated by day. Such stipend will terminate upon Authority's initial contribution to an employer-sponsored retirement account for the benefit of Employee.

(iv) Automobile Allowance. Employee shall receive a gross monthly vehicle allowance of Five Hundred Dollars (\$500) per month. The Parties intend for this taxable allowance to be in lieu of reimbursement on an itemized basis for mileage, gas, maintenance of a vehicle, etc. Employee shall not be separately reimbursed for mileage driven in his or her personal vehicle.

(v) Technology Allowance. The Authority does not currently have a permanent place of business and employees are subject to California stay-at-home orders due to COVID-19. Upon the Authority obtaining a place of business and requiring employees to work from the place of business, Employee shall receive either an Authority-owned mobile phone and (accompanying Authority-paid plan) or a \$100 monthly taxable technology allowance to use towards his or her personal discretionary technological purchases and expenses in furtherance of employment (e.g., mobile phone, tablet, data plan, laptop computer). The Parties intend this allowance to cover all technology-related costs that Employee incurs in the course and scope of his or her employment with the Authority.

4. NATURE AND TERMINATION OF EMPLOYMENT.

(a) **At-Will Employment; Termination.** Authority and Employee expressly agree that the employment relationship created by this Agreement is "at-will," that Employee serves at the will and pleasure of the Board of Directors, and Employee may be terminated at any time, with or without cause. Nothing in this Agreement or any statute, ordinance, or rule shall prevent, limit or otherwise interfere with the right of Authority to terminate, without cause or right of appeal or grievance, the services of the Employee at any time. The provisions below apply to termination:

(I) Termination by Authority for Cause. At any time, Authority may immediately terminate this Agreement for cause by providing written notification to the Employee with the basis for the cause. All compensation and benefits shall immediately terminate upon the effective date of any notice of for-cause termination. For the purposes of this Agreement, "cause" shall include, but not be limited to, bribery, theft, embezzlement, conviction of any criminal act involving fraud, malfeasance, or an act of misfeasance, unlawful discrimination, commission of a felony, material dishonesty related to Employee's duties or the Authority, material violation of the Authority's personnel policies or procedures as discussed in Section 5 herein, or other gross misconduct in the performance of his or her job. Employee shall

not be entitled to any severance under this Agreement, as described below in paragraph (ii), if terminated for cause.

(ii) Termination by Authority Without Cause. At any time, Authority may terminate this Agreement without cause, severance pay equal to six (6) months' salary ("**Severance Pay**"). Severance Pay shall be computed based upon Employee's base monthly salary in effect at the time of termination. In exchange for the Severance Pay mentioned above, Employee hereby expressly waives any right he or she may have under any applicable law, Authority policy or otherwise to appeal or grieve the termination. Employee further agrees that payment of Severance Pay is contingent on execution of a severance agreement by Employee including a general waiver of claims consistent with this paragraph. The Parties expressly acknowledge and agree that these Severance Pay provisions have been independently negotiated. Acceptance at the time of termination by Employee of the Severance Pay shall operate as a full and complete waiver and release of any and all rights, claims, and/or causes of action which Employee may have, or have had, at any time, in the past or in the future, arising out of Employee's employment by Authority including, but not limited to, claims for wrongful termination with the exception of any claims for worker's compensation benefits or any other claims which cannot be waived under applicable law. If Employee wishes to retain any such rights, Employee must decline to accept the Severance Pay provided by this paragraph. This section is intended to comply with the provisions of California Government Code §§ 53260 and 53261, *et seq.*, and in no event shall Employee be entitled to severance benefits greater than provided for therein.

(b) **Resignation.** In the event that Employee voluntarily resigns Employee's position with Authority, Employee shall provide a minimum of thirty (30) days' notice unless the parties agree otherwise.

5. **AUTHORITY POLICIES AND PROCEDURES.** In addition to the terms and conditions of this Agreement, the terms and conditions of Employee's employment, including additional employment benefits of Employee not specifically provided for in this Agreement, shall be governed by Authority's personnel policies and procedures to the extent not inconsistent with the provisions of the Agreement. In the event of any conflict with an express provision of this Agreement, this Agreement shall control.

6. **STATUTORY REQUIREMENTS.** This Agreement shall be deemed to incorporate by reference the provisions of California Government Code § 53243 *et seq.*, as it may be amended or renumbered.

7. **PAYMENT OF EXPENSES OF EMPLOYMENT.** Authority shall pay the following usual and customary employment expenses:

(a) **Job-Related Expenses.** Reimbursement for ordinary and necessary job-related expenses incurred on behalf of Authority in accordance with Authority policy and applicable law. Employee shall not receive mileage for travel to and from Authority office to Employee's residence. Subject to the limitations of applicable law and Authority policy, Authority shall pay or otherwise reimburse Employee for the costs of necessary meetings and functions Employee attends on Authority's behalf, including transportation, registration, meals and hotel accommodations. Employee shall provide appropriate receipts to Authority for any expense reimbursements.

(b) **Fidelity Bonds.** The cost of any fidelity or other bonds required by law for Employee.

(c) **Defense and Indemnity.** Subject to Section 6 of this Agreement, the cost to defend and indemnify Employee to the full extent of the law as provided by the California Government Claims Act (Government Code § 810 *et seq.*) or otherwise. Notwithstanding the foregoing, Authority's obligation to defend and indemnify Employee shall extend only to the entry of a final judgment by the trial court, and shall not extend to providing defense or indemnity in connection with an appeal of the judgment, unless otherwise specifically provided by law. Authority will determine, in its sole discretion, whether to compromise and settle any such claim or suit against Employee and the amount of any settlement or judgment rendered thereon.

8. **NOTICES.** Any notice or other communication under this Agreement must be in writing and shall be effective upon delivery by hand or three (3) business days after deposit in the United States mail, postage prepaid, certified or registered, and addressed to Authority or to Employee at the address described below. Employee shall be obligated to notify Authority in writing of any change in address.

(a) Notice to Authority shall be made to the attention of the Chair of Authority's Board of Directors at Authority's then-current principal place of business as identified in a resolution or other enactment of Authority's Board of Directors, as may be amended from time to time.

(b) Notice to Employee shall be made to Employee's then-current address on file with Authority Human Resources.

9. **INTEGRATION.** This Agreement is intended to be the final, complete, and exclusive statement of the terms of Employee's employment by Authority. This Agreement supersedes all other prior and contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the employment of Employee, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements. To the extent that the practices, policies, or procedures of Authority, now or in the future, apply to Employee and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control.

10. **AMENDMENTS; WAIVERS.** This Agreement may not be amended except by an instrument in writing, signed by each of the parties. No failure to exercise and no delay in exercising any right, remedy, or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power under this Agreement preclude any other or further exercise thereof, or the exercise of any other right, remedy, or power provided herein or by law or in equity.

11. **SEVERABILITY.** If any provision of this Agreement, or its application to any person, place, or circumstance is held by an arbitrator or a court of competent jurisdiction to be invalid, unenforceable, or void, such provision shall be enforced to the greatest extent permitted by law, and the remainder of this Agreement and such provision as applied to other persons, places, and circumstances shall remain in full force and effect.

12. **ATTORNEYS' FEES.** In any legal action, arbitration, or other proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

13. **GOVERNING LAW; VENUE.** This Agreement shall be governed by and construed in accordance with the law of the State of California. Employee and Employer agree that venue for any dispute shall be in Orange County, California.

14. **COUNTERPARTS.** This Agreement may be executed in two or more counterparts, including via facsimile or electronically-transmitted signature, each of which shall be deemed an original, but all of which together shall constitute one-in-the-same document.

15. **EMPLOYEE ACKNOWLEDGMENT.** Employee acknowledges that Employee has had the opportunity to consult legal counsel in regard to this Agreement, that Employee has read and understands this Agreement, that Employee is fully aware of its legal effect, and that Employee has entered into it freely and voluntarily and based on Employee's own judgment and not on any representations or promises other than those contained in this Agreement.

SIGNATURES ON FOLLOWING PAGE

The Parties have duly executed this Employment Agreement between Orange County Power Authority and Antonia Castro-Graham as of the date first written above.

Dated: 1/13/21

Antonia Castro-Graham

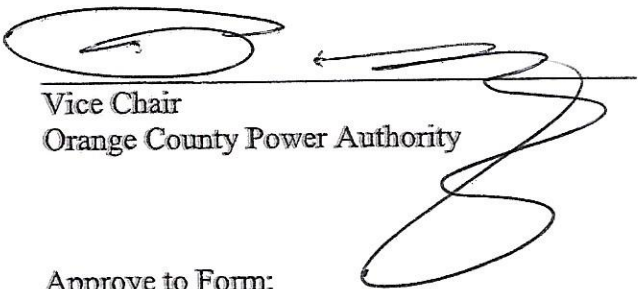
Antonia Castro-Graham

Dated: 1/12/21




Chair
Orange County Power Authority

Dated: 2/4/21



Vice Chair
Orange County Power Authority

Dated: 1/20/2021

Approve to Form:


General Counsel

EXHIBIT A
(Job Description - Chief Operating Officer)

Responsibilities of the Chief Operating Officer include, but are not limited to, the following:

- Provide input and top decision making authority, collaboratively and in support of the Chief Executive Officer (“CEO”).
 - Provide key executive input into all operational areas of the Authority ranging from strategic planning and direction to budget and hiring.
 - Participate as a part of the Executive Management Team in all aspects of OCPA business.
- Report directly to the Board of Directors and is the Acting CEO in the CEO’s absence, unless otherwise determined by the Board.
- Specific areas of responsibility and authority:
 - **Regulatory and government affairs.** Provide management oversight of regulatory and government affairs, including staffing recommendations and consultant activities.
 - **Marketing, data management, customer affairs.** Manage the day-to-day operations data management, billing and call center operations.
 - **Programs.** Recommend, implement and manage customer energy programs, including energy efficiency, net energy metering, feed-in-tariff, and other demand-side management programs. Oversee development and manages implementation of a Local Development Business Plan.
 - **Public, committee, and board engagement.** As a member of the Executive Management Team, interact with the Board of Directors and committees. Coordinate the activities of the Community Advisory Committee. Create and maintain productive relationships with the community, business groups, industry participants, and regulatory agencies.
 - **General administration.** Provide input on the administration and operations portion of the strategic plan, including mission and vision.
 - **Day-to-day operational oversight.** Manage the day-to-day operations of the Authority, including recruitment process and culture. Recommend appropriate staffing levels for the administrative and operations staff.
 - **Executive management responsibilities** – Participate as member of Executive Management Team with regard to power procurement, budget, and forecasting.