

## AGENDA

### SPECIAL MEETING

#### ORANGE COUNTY POWER AUTHORITY MEETING OF THE BOARD OF DIRECTORS

**Tuesday, December 21, 2021  
9:00 a.m.**

This meeting will proceed as a teleconference meeting in compliance with waivers to certain provisions of the Ralph M. Brown Act provided for under California Government Code section 54953(e)(1)(A) in relation to the Covid-19 state of emergency and recommended social distancing measures. 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. To provide comments during the meeting, join the Zoom meeting by computer, mobile phone, or dial-in number. 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 video conference or telephonically. On Zoom video conference by computer or mobile phone, use the “Raise Hand” feature. This will notify the Clerk that you wish to speak during a specific item on the agenda or during non-agenda Public Comment. If joining the meeting using the Zoom dial-in number, you can raise your hand by pressing \*9. Members of the public will not be shown on video but will be able to speak when called upon.

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 [comments@ocpower.org](mailto:comments@ocpower.org), who will distribute the information to the Members.

The public may participate using the following remote options:

#### ZOOM MEETING

You are invited to a Zoom webinar.

Please click the link below to join the webinar:

[Launch Meeting - Zoom](#)

Dial-in: 1-669-900-6833

Webinar ID: 859 3608 1091

Passcode: 324773

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

4. **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. **CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION APPROVING AMENDMENT NO. 1 TO THE OCPA COMMUNITY CHOICE AGGREGATION IMPLEMENTATION PLAN AND STATEMENT OF INTENT**

**Recommended Action:**

1. Conduct a Public Hearing.
2. Adopt Resolution 2021-10: A Resolution of the Board of Directors of the Orange County Power Authority adopting the Community Choice Aggregation Implementation Plan and Statement of Intent Providing New Electric Service to the County of Orange.

2. **ADOPT PERSONNEL POLICIES MANUAL AND AUTHORIZE ORANGE COUNTY POWER AUTHORITY'S EMPLOYEE BENEFITS PROGRAM**

**Recommended Action:**

1. Adopt Personnel Policies Manual.
2. Authorize OCPA Employee Benefits Program.

5. **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.*

6. **STAFF REPORT**

*Staff 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*

7. **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.*

8. **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 949-263-2612. 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.ocpower.org](http://www.ocpower.org). 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. Late-arriving documents received during the meeting are available for review by making a verbal request to the Board Secretary in the Zoom meeting room.

**ORANGE COUNTY POWER AUTHORITY**  
**Staff Report – Item 4.1**

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To: Orange County Power Authority Board of Directors

From: Brian Probolsky, Chief Executive Officer  
Ryan Baron, General Counsel

Subject: CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION APPROVING  
AMENDMENT No. 1 TO THE OCPA COMMUNITY CHOICE  
AGGREGATION IMPLEMENTATION PLAN AND STATEMENT OF  
INTENT

Date: December 21, 2021

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**RECOMMENDED ACTION**

1. Conduct a Public Hearing.
3. Adopt Resolution 2021-10: A Resolution of the Board of Directors of the Orange County Power Authority adopting the Community Choice Aggregation Implementation Plan and Statement of Intent Providing New Electric Service to the County of Orange.

**BACKGROUND**

OCPA’s initial Implementation Plan was certified by the Commission on March 8, 2021. OCPA’s community choice aggregator (“CCA”) program will launch on April 1, 2022.

On February 16, 2021, the Lake Forest City Council withdrew from the Authority and subsequently notified the Authority of the withdrawal in accordance of its joint power agreement.

On December 14, 2021, the OCPA Board of Directors adopted Resolution 2021-10 approving the addition of the County of Orange as its fifth member agency.

**DISCUSSION**

Before expanding its CCA services, OCPA must meet certain legal requirements set forth in the California Public Utilities Code section 366.2 (the “Code”). The Code requires that the governing body of each CCA adopt, at a duly noticed public meeting, an amendment to its Implementation Plan, and submit the Implementation Plan to the Commission for certification.

Amendment No. 1 to the Implementation Plan addresses the anticipated impacts of OCPA’s planned expansion to the County of Orange unincorporated area and certain other forecast modifications reflecting recently updated projections, customer energy requirements, peak demand, renewable energy purchases, financial plan, and various other items.

The electricity demand for the County of Orange is about 951 GWh, or 21% of OCPA’s future demand upon enrollment. OCPA’s customer base will increase to approximately 366,000 eligible accounts and retail sales to approximately 4,461 GWh. OCPA anticipates a launch sometime after January 2023 for all eligible customers within the County of Orange unincorporated areas.

## **FISCAL IMPACT**

There is no fiscal impact for updating the Implementation Plan.

## **ATTACHMENTS**

1. Resolution No. 2021-10 a “Resolution of the Board of Directors of the Orange County Power Authority (“OCPA”) Approving Amendment No. 1 to the Orange County Power Authority Community Choice Aggregation Implementation Plan and Statement of Intent (“Implementation Plan”) to make certain adjustments reflecting the expansion of (“OCPA”) service to the County of Orange.”
2. Amendment No. 1 to the Orange County Power Authority Community Choice Aggregation Implementation Plan and Statement of Intent

**RESOLUTION NUMBER 2021-10**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ORANGE COUNTY  
POWER AUTHORITY APPROVING AMENDMENT NUMBER ONE TO THE  
COMMUNITY CHOICE AGGREGATION IMPLEMENTATION PLAN AND  
STATEMENT OF INTENT PROVIDING NEW ELECTRIC SERVICE TO THE  
COUNTY OF ORANGE**

A. The Orange County Power Authority (“OCPA”) is a joint powers authority formed pursuant to the Joint Exercise of Powers Act (Cal. Gov. Code § 6500 *et seq.*), California Public Utilities Code § 366.2, and a Joint Powers Agreement, effective November 20, 2020, by and between the member agencies of the Cities of Buena Park, Fullerton, Huntington Beach, and Irvine.

B. On November 23, 2021, the County of Orange approved the OCPA Joint Powers Agreement and became a member of OCPA. On December 7, 2021, the County of Orange adopted an ordinance pursuant to Public Utilities Code § 366.2 authorizing a community choice aggregation program for retail customers in the unincorporated areas of Orange County with electric service provided by OCPA.

C. Public Utilities Code § 366.2 requires that prior to commencing a community choice aggregation program to a new member agency, OCPA must adopt an amended Implementation Plan and Statement of Intent to be filed with and certified by the California Public Utilities Commission.

D. OCPA’s Amendment Number One to the Community Choice Aggregation Implementation Plan and Statement of Intent describing the provision of new retail electric service to the County of Orange unincorporated area was presented to the Board of Directors at a duly noticed public hearing for consideration and adoption on December 21, 2021.

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

Section 1. In accordance with California Public Utilities Code § 366.2, the Board of Directors hereby considers and approves Amendment Number One to Community Choice Aggregation Implementation Plan and Statement of Intent at a duly noticed public hearing held virtually on December 21, 2021 at 9:00 a.m., after allowing interested persons the opportunity to provide public comment.

Section 2. The Board of Directors hereby directs the OCPA Chief Executive Officer to file Amendment Number One to Community Choice Aggregation Implementation Plan and Statement of Intent with the Energy Division of the California Public Utilities Commission no later than December 31, 2021.

Section 3. This resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** at a meeting of the Board of Directors of the Orange County Power Authority held on December 21, 2021.

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Secretary  
Orange County Power Authority

# **Orange County Power Authority**

## **COMMUNITY CHOICE AGGREGATION IMPLEMENTATION PLAN AND STATEMENT OF INTENT – AMENDMENT No. 1**

**To address the addition of Orange County’s unincorporated  
area customers and departure of the City of Lake Forest**

**Approved December 21, 2021**

**Filed December \_\_, 2021**

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## Chapter 1 – Introduction

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Orange County Power Authority (OCPA) is a joint powers authority located within Orange County, formed on November 20, 2020 pursuant to the Joint Exercise of Powers Act (California Government Code § 6500 *et seq.*) for the purpose of implementing a community choice aggregation program (“CCA” or “Program”) under California Public Utilities Code §366.2. OCPA’s original Implementation Plan and Statement of Intent (“Implementation Plan”), filed on December 28, 2020, included the municipalities of:

- City of Buena Park
- City of Fullerton
- City of Huntington Beach
- City of Irvine
- City of Lake Forest

The CPUC certified the Implementation Plan on March 8, 2021. Subsequent to the filing of OCPA’s Implementation Plan, the City of Lake Forest withdrew from OCPA. The California Public Utilities Commission (CPUC) was notified of the City of Lake Forest’s withdrawal under cover of OCPA’s letter to CPUC Regulatory Analyst Dina Mackin, Energy Division, dated May 7, 2021.

Customers within the four municipalities will begin taking service in 2022. Subsequently, the County of Orange joined OCPA on December 7, 2021. Thus, the purpose of this Implementation Plan and Statement of Intent – Amendment No. 1 (“Amendment No. 1”) is to provide the CPUC with an update of the required operational, financial and governance elements of OCPA after the departure of Lake Forest and the addition of the County of Orange plus the remaining municipalities of Buena Park, Fullerton, Huntington Beach and Irvine (collectively, the “Members”).

The Program will provide retail electricity customers the opportunity to join together to procure electricity from competitive suppliers, with such electricity being delivered over Southern California Edison’s (“SCE”) and San Diego Gas & Electric’s (“SDG&E”) transmission and distribution system. The planned start date for the Program is April 1, 2022 for the four cities noted above to begin service in SCE territory. The County’s unincorporated area load is assumed to launch sometime after January 1, 2023 and will encompass both SCE and SDG&E territories. All current SCE and SDG&E customers within OCPA’s service area will receive information describing the Program and will have multiple opportunities to choose to remain full requirement (“bundled”) customers of SCE or SDG&E, as applicable, in which case they will not be enrolled. Thus, participation in the Program is completely voluntary; however, customers, as provided by law, will be automatically enrolled according to the anticipated phase-in schedule (later described in Chapter 5) unless they affirmatively elect to opt-out.

Implementation of the Program will enable customers within OCPA’s service area to take advantage of the opportunities granted by Assembly Bill 117 (“AB 117”), the Community Choice

Aggregation Law. OCPA’s primary objectives in implementing this Program are to provide cost competitive electric service, promote economic development, reduce electric sector greenhouse gas emissions (“GHG”) within the OCPA service territory, stimulate renewable energy development, implement distributed energy resources, promote energy efficiency and demand reduction programs, and sustain long-term rate stability for residents and businesses through local control. The prospective benefits to consumers include stable and competitive electric rates, increased renewable and other low GHG emitting energy supplies, and the opportunity for public participation in OCPA’s operations.

To ensure successful operation of the Program, OCPA will continue to solicit energy suppliers and marketers through a competitive process that began in the summer of 2021. Information regarding future solicitations is contained in Chapter 10.

California Public Utilities Code § 366.2 provides the relevant legal authority for OCPA to become a CCA and invests the CPUC with the responsibility for establishing the cost recovery mechanism that must be in place before customers can begin receiving electrical service through the Program. The CPUC has registered OCPA as a CCA and ensures compliance with basic consumer protection rules. The Public Utilities Code requires that an Implementation Plan be adopted at a duly noticed public hearing and that it be filed with the CPUC. OCPA will comply with all these directives.

On December 21, 2021, at a duly noticed public hearing, the OCPA Board considered and adopted this Amendment No. 1, through Resolution 2021-10. The CPUC has established the methodology that will be used to determine the cost recovery mechanism, and the incumbent utilities have approved tariffs for the cost recovery mechanism. Finally, the County of Orange has adopted an Ordinance to implement a CCA program through its participation in OCPA and has adopted a resolution adopting OCPA’s joint powers agreement. With each of these milestones accomplished, OCPA submits this Amendment No. 1 to the CPUC.

### **Organization of this Implementation Plan**

The content of this Amendment No. 1 complies with the statutory requirements of AB 117. As required by Public Utilities Code § 366.2(c)(3), Amendment No. 1 details the process and consequences of aggregation and provides OCPA’s statement of intent for implementing the Program that includes the following:

- Universal access;
- Reliability;
- Equitable treatment of all customer classes; and
- Any requirements established by State law or by the CPUC concerning aggregated service.

The remainder of this Amendment No. 1 is organized as follows:

- Chapter 2: Aggregation Process
- Chapter 3: Organizational Structure
- Chapter 4: Start-Up Plan & Funding
- Chapter 5: Program Phase-In
- Chapter 6: Load Forecast & Resource Plan
- Chapter 7: Financial Plan
- Chapter 8: Rate setting
- Chapter 9: Customer Rights and Responsibilities
- Chapter 10: Procurement Process
- Chapter 11: Contingency Plan for Program Termination
- Appendix: OCPA Joint Powers Agreement

The requirements of AB 117 are cross-referenced to Chapters of Amendment No. 1 in the following table.

**Table 1**  
**AB 117 Cross References**

AB 117 REQUIREMENT	IMPLEMENTATION PLAN CHAPTER
Statement of Intent	Chapter 1: Introduction
Process and consequences of aggregation	Chapter 2: Aggregation Process
Organizational structure of the program, its operations and funding	Chapter 3: Organizational Structure Chapter 4: Start-Up Plan & Funding Chapter 7: Financial Plan
Disclosure and due process in setting rates and allocating costs among participants	Chapter 8: Rate Setting
Rate setting and other costs to participants	Chapter 8: Rate Setting Chapter 9: Customer Rights and Responsibilities
Participant rights and responsibilities	Chapter 9: Customer Rights and Responsibilities
Methods for entering and terminating agreements with other entities	Chapter 10: Procurement Process
Description of third parties that will be supplying electricity under the program, including information about financial, technical and operational capabilities	Chapter 10: Procurement Process
Termination of the program	Chapter 11: Contingency Plan for Program Termination

## Chapter 2 - Aggregation Process

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### Introduction

This Chapter describes the background leading to the development of this Amendment No. 1, and describes the process and consequences of aggregation, consistent with the requirements of AB 117.

Beginning in 2018, the City of Irvine began investigating formation of a CCA, pursuant to California state law, with the following objectives: 1) provide cost-competitive electric services; 2) promote local economic development; 3) reduce GHG emissions related to the use of electric power within the County; and 4) increase the use of renewable energy resources relative to the incumbent utility (SCE). A technical feasibility study for a CCA Program serving the City of Irvine was completed in January 2020.

After nearly 11 months of collaborative work by representatives of the Members plus independent consultants, local experts and stakeholders, OCPA was formed on November 20, 2020 for purposes of implementing the Program. Subsequently, OCPA Board of Directors (Board) approved this Amendment No. 1 through a duly noted public hearing, complying with the standards stated in California Public Utilities Code § 366.2. In 2021, the CPUC certified the original OCPA Implementation Plan and OCPA completed its registration process to begin serving loads in 2022. The County of Orange joined OCPA on November 23, 2021 and adopted its ordinance on December 7, 2021, with an anticipated launch date after January 1, 2023. Businesses and residents within the unincorporated County of Orange are currently served by either SCE or SDG&E. OCPA is continuing discussions with additional jurisdictions regarding membership in the JPA. This Amendment No. 1 will be updated if and when additional members join OCPA.

The Program represents a culmination of planning efforts that are responsive to the expressed needs and priorities of the citizenry and business community within the OCPA Members. OCPA plans to offer choices to eligible customers through the creation of innovative programs for voluntary purchases of renewable energy, net energy metering to promote customer-owned renewable generation, energy efficiency, demand responsiveness to promote reductions in peak demand, distributed energy generation, customized pricing options for larger energy users, and support of local renewable energy projects through offering of a standardized power purchasing agreement or Feed-In Tariff. The analysis contained in this Amendment No. 1 does not include non-residential Direct Access customers as it is assumed that customers taking Direct Access service from a competitive electricity provider will continue to remain with their current provider.

### Process of Aggregation

Before they are enrolled in the Program, prospective OCPA customers will receive two written notices in the mail from OCPA that will provide information needed to understand the Program's terms and conditions of service, and explain how customers can opt-out of the Program, if desired. All customers that do not follow the opt-out process specified in the customer notices

will be automatically enrolled, and service will begin at their next regularly scheduled meter read date no later than thirty days following the date of automatic enrollment, subject to the service phase-in plan described in Chapter 5. Non-residential Direct Access and Standby customers will not be automatically enrolled. The initial enrollment notices will be provided to the first phase of customers in February 2022. Initial enrollment notices will be provided to subsequent customer phases consistent with statutory requirements and based on schedule(s) determined by OCPA. These notices will be sent to customers in subsequent phases twice within 60 days of automatic enrollment.

Customers enrolled in the Program will continue to have their electric meters read and to be billed for electric service by the both distribution utilities (SCE or SDG&E). The electric bill for Program customers will show separate charges for generation procured by OCPA as well as other charges related to electricity delivery and other utility charges assessed by SCE and SDG&E.

After service initiation, customers will have approximately 60 days (two billing cycles) to opt-out of the OCPA Program without penalty and return to the incumbent utility. OCPA customers will be advised of these opportunities via the distribution of two additional enrollment notices provided within the first two months of OCPA service. Customers that opt-out between the initial cutover date and the close of the post enrollment opt-out period will be responsible for Program charges for the time they were served by OCPA but will not otherwise be subject to any penalty for leaving the program. Customers that have not opted-out within thirty days of the fourth enrollment notice will be deemed to have elected to become a participant in the Program and to have agreed to the Program’s terms and conditions, including those pertaining to requests for termination of service, as further described in Chapter 9.

## **Consequences of Aggregation**

### **Rate Impacts**

OCPA customers will pay the generation charges incurred and set by OCPA and no longer pay the costs of SCE or SDG&E generation. Customers enrolled in the Program will be subject to the Program’s terms and conditions, including responsibility for payment of all Program charges as described in Chapter 9.

OCPA’s rate setting policies described in Chapter 8 establish a goal of providing rates that are competitive with the projected generation rates offered by the incumbent utility. OCPA will establish rates sufficient to recover all costs related to operation of the Program, and actual rates will be adopted and approved by the Board after public hearings and input.

Initial Program rates will be established following approval of OCPA’s annual budget, reflecting final costs from the OCPA Program’s energy supplier(s). OCPA’s rate policies and procedures are detailed in Chapter 8. Information regarding final Program rates will be disclosed along with other terms and conditions of service in the pre-enrollment and post-enrollment notices sent to potential customers.

Once OCPA gives definitive notice to SCE and SDG&E that it will commence service to County unincorporated area, OCPA customers will generally not be responsible for costs associated with the incumbent utilities’ future electricity procurement contracts or power plant investments. Certain pre-existing generation costs and new generation costs that are deemed to provide system-wide benefits will continue to be charged by the incumbent utilities to Program customers through separate rate components, such as the Cost Responsibility Surcharge and the New System Generation Charge. These charges are shown in the incumbent utilities’ electric service tariffs, which can be accessed from their websites, and the costs are included in charges paid by both SCE and SDG&E bundled customers as well as CCA and Direct Access customers.<sup>1</sup>

### **Local Economic Development Impacts**

The indirect effects of creating the Program include the effects of increased commerce, and disposable income. The technical feasibility study completed for OCPA included an input-output (“IO”) analysis that analyzed indirect effects of implementing a CCA. The IO model turns on the assumption that forming a CCA will lead to lower energy rates for customers. Three types of impacts are analyzed in the IO model. These are described below.

*Local Investment* – OCPA may choose to implement programs to incentivize investments in local distributed energy resources (“DER”). Participants in OCPA may pursue local clean DER. These resources can be behind the meter or community projects where several customers participate in a centrally located project (e.g., “community solar”). This demand for local renewable resources will lead to an increase in the manufacturing and installation of DER, and lead to an increase in employment in the related manufacturing and construction sectors.

*Increased Disposable Income* – OCPA retail rates may be lower than SCE and SDG&E rates creating more disposable income for individuals and greater revenues for businesses. These cost savings could then lead to more investment by individuals and businesses for personal or business purposes. This increase in spending could result in increased employment for multiple sectors such as retail, construction, and manufacturing.

*Environmental and Health Impacts* – With the creation of a CCA, such as OCPA, other non-commerce indirect effects will occur. These may be environmental, such as improved air quality or improved human health due to the CCA potentially utilizing more renewable energy sources versus continuing use of traditional energy sources which may have a greater GHG footprint.

### **Renewable Energy Impacts**

A second consequence of the Program will be a likely increase in the proportion of energy generated and supplied by renewable resources. The OCPA Resource Plan (“Plan”) includes procurement of renewable energy sufficient to meet California’s prevailing renewable energy procurement mandate for all enrolled customers. Program customers will also have the opportunity to participate in a 100 percent renewable supply option and a middle tier 70 percent option. To the extent that customers choose a 100 or 70 percent renewable energy option, the

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<sup>1</sup> For investor-owned utility (IOU) bundled service customers, the Power Charge Indifference Adjustment element of the Cost Responsibility Surcharge is contained within the tariffed Generation rate. Other elements of the Cost Responsibility Surcharge are set forth in the IOU’s tariffs as separate rates/charges paid by all customers (with limited exceptions).

renewable content of OCPA’s aggregate supply portfolio will further increase. Initially, requisite renewable energy supply will be sourced through one or more power purchase agreements. Over time, however, OCPA will likely consider independent development of new local renewable generation resources. OCPA seeks to establish a resource portfolio that encourages the use and development of cost-effective local renewable and distributed energy resources.

### **Energy Efficiency Impacts**

A third consequence of the Program will be an anticipated increase in energy efficiency program investments and activities. The existing energy efficiency programs administered by the incumbent utility are not expected to change as a result of OCPA Program implementation. OCPA customers will continue to pay the public benefits surcharges to SCE and SDG&E, as applicable, which will fund energy efficiency programs for all customers, regardless of generation supplier.

The energy efficiency investments ultimately planned for the Program, as described in Chapter 6, will follow OCPA’s successful application for and administration of requisite program funding (from the CPUC) to independently administer energy efficiency programs within its service territory. Such programs will be in addition to the level of investment that would continue in the absence of OCPA-administered energy efficiency programs. Thus, the Program has the potential for increased energy savings and a further reduction in emissions due to expanded energy efficiency programs.



## **Chapter 3 – Organizational Structure**

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This Chapter provides an overview of the organizational structure of OCPA and its proposed implementation of the Program. Specifically, the key agreements, governance, management, and organizational functions of OCPA are outlined and discussed below.

### **Organizational Overview**

On November 20, 2020, OCPA formed establishing a Board of Directors of elected officials appointed by the Members. The Board is responsible for establishing Program policies and objectives and overseeing OCPA’s operation. On January 12, 2021, the Board appointed a Chief Executive Officer (“CEO”) to manage the operation of OCPA in accordance with policies adopted by the Board. The CEO appoints staff and contractors to manage OCPA’s activities. These activities include support services (administration, finance and IT), marketing and public affairs (community outreach, key account management and customer advocacy), supply acquisition (energy trading, contract negotiation and system development), and legal and government affairs.

### **Governance**

The Program is governed by the Board, which includes two appointed designees from the City of Irvine (initially) and one appointed designee for each of the other Members. OCPA is a joint powers authority created on November 20, 2020 and formed under California law. The Members of OCPA include municipalities of Buena Park, Fullerton, Huntington Beach and Irvine, all located within Orange County and all of which have elected to allow OCPA to provide electric generation service within their respective jurisdictions. The County of Orange also recently joined OCPA.

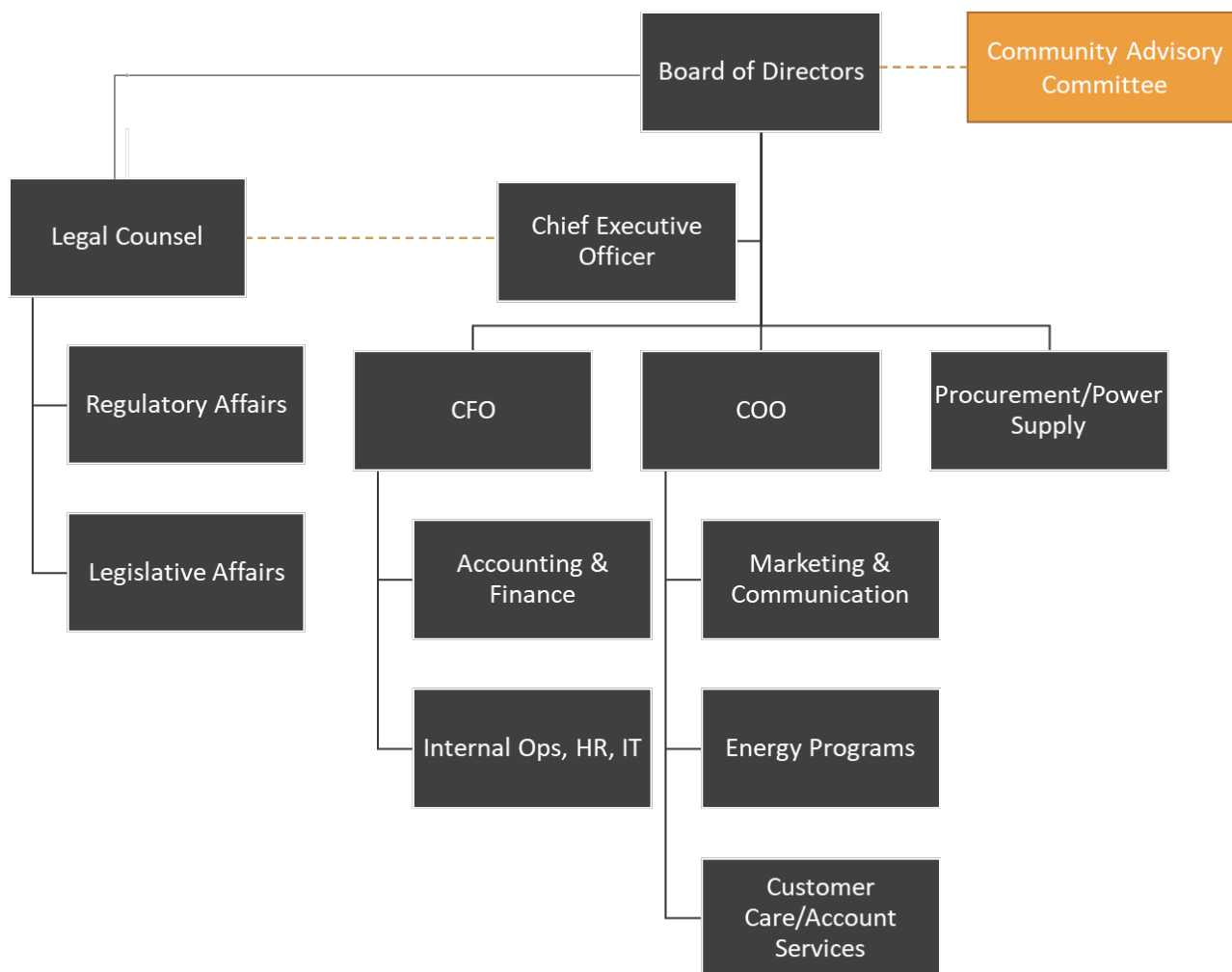
The Board’s primary duties are to establish program policies, approve rates and provide policy direction to the CEO, who has general responsibility for program operations, consistent with the policies established by the Board. The Board has elected a Chair and Vice Chair and has established a Community Advisory Committee. The Board may also establish an Executive Committee, Finance Committee or other committees, as needed, to address issues that require greater expertise in particular areas. OCPA may also form various standing and ad hoc committees, as appropriate, which would have responsibility for evaluating various issues that may affect OCPA and its customers, and would provide analytical support and recommendations to the Board in these regards.

### **Management**

The Board has appointed a CEO, who has management responsibilities over functional areas of Administration & Finance, Marketing & Public Affairs, Power Resources & Energy Programs, and Government Affairs as well as OCPA’s General Counsel. In performing the obligations to

OCPA, the CEO may utilize a combination of internal staff and/or contractors. Certain specialized functions needed for Program operations, namely the electric supply and customer account management functions described below, may be performed initially by third-party contractors. The organization chart below illustrates the management structure of OCPA.

**Table 2  
Organization Chart for OCPA**



Major functions of OCPA that will be managed by the CEO are summarized below.

**Administration**

OCPA’s CEO is responsible for managing the organization’s human resources and administrative functions and will coordinate with the Board, as necessary, with regard to these functions. The functional area of administration will include oversight of employee hiring and termination, compensation and benefits management, identification and procurement of requisite office space and various other administrative issues.

## **Finance**

The CEO is also responsible for managing the financial affairs of OCPA, including the development of an annual budget, revenue requirement and rates, managing and maintaining cash flow requirements, arranging potential bridge loans as necessary, and other financial tools.

Revenues via rates and other funding sources (such as a rate stabilization fund, when necessary) must, at a minimum, meet the annual budgetary revenue requirement, including recovery of all expenses and any reserves or coverage requirements set forth in loan covenants or other agreements. OCPA will have the flexibility to consider rate adjustments within certain ranges, administer a standardized set of electric rates, and may offer optional rates to encourage policy goals such as economic development or low-income support programs, provided that the overall revenue requirement is achieved.

OCPA may also offer customized pricing options such as dynamic pricing or contract-based pricing for energy intensive customers to help these customers gain greater control over their energy costs. This would provide such customers – mostly larger energy users within the commercial sector – with greater rate-related flexibility than what is currently available.

OCPA's finance function will be responsible for arranging financing necessary for any capital projects, preparing financial reports, and ensuring sufficient cash flow for successful operation of the Program. The finance function will play an important role in risk management by monitoring the credit of energy suppliers so that credit risk is properly understood and mitigated. In the event that changes in a supplier's financial condition and/or credit rating are identified, OCPA will be able to take appropriate action, as would be provided for in the electric supply agreement(s).

## **Marketing & Public Affairs**

The marketing and public affairs functions include general Program marketing and communications as well as direct customer interface ranging from management of key account relationships to call center and billing operations. OCPA will conduct Program marketing to raise consumer awareness of the Program and to establish the OCPA "brand" in the minds of the public, with the goal of retaining and attracting as many customers as possible into the Program. Outgoing communications will also promote the Programs. Additionally, OCPA will communicate with key policy makers at the state and local level, community business and opinion leaders, and the media.

In addition to general Program communications and marketing, a significant focus on customer service, particularly representation for key accounts, will enhance the Program's ability to differentiate itself as a highly customer-focused organization that is responsive to the needs

of the community. OCPA will also establish a customer call center designed to field customer inquiries and routine interaction regarding customer accounts.

The customer service function also encompasses management of customer data. Customer data management services include retail settlements/billing-related activities and management of a customer database. This function processes customer service requests, and administers customer enrollments and departures from the Program and maintaining a current database of enrolled customers. This function coordinates the issuance of monthly bills through the incumbent utility billing process and tracks customer payments. Activities include the electronic exchange of usage, billing, and payments data between SCE/SDG&E and OCPA, tracking of customer payments and accounts receivable, issuance of late payment and/or service termination notices (which would return affected customers to bundled service), and administration of customer deposits in accordance with credit policies of the Program.

The customer data management services function also manages billing-related communications with customers, customer call centers, and routine customer notices. The Program has initially contracted with a third-party that has demonstrated the necessary experience and administers an appropriate customer information system to perform the customer account and billing services functions.

### **Power Resources & Energy Programs**

The Program must plan for meeting the electricity needs of its customers utilizing resources consistent with its policy goals and objectives as well as applicable legislative or regulatory mandates. The Program's long-term resource plans (addressing the 10 to 20-year planning horizon) will comply with California law and other pertinent requirements of California regulatory bodies. OCPA may develop and administer complementary energy programs that may be offered to Program customers, including green pricing, energy efficiency, net energy metering, feed-in-tariff or local resource portfolios, and various other programs that may be identified to support the overarching goals and objectives of OCPA.

The Program will develop Integrated Resource Plans ("IRP") that meet program supply objectives and balances cost, risk and environmental considerations. IRPs are planning documents used by electric utilities to produce least cost resource planning by looking at both supply-side (solar, market) and demand-side (energy efficiency) resources. Such IRP's will also conform to applicable requirements imposed by the State of California. IRP efforts by OCPA will make maximum use of demand side energy efficiency, distributed generation and demand response programs as well as traditional supply options which rely on structured wholesale transactions to meet customer energy requirements. The Program's IRP will be updated and adopted by the Board on an annual basis.

### **Electric Supply Operations**

Electric supply operations encompass the activities necessary for wholesale procurement of electricity to serve the Program’s customers. These highly specialized activities include the following:

- *Electricity Procurement* – assemble a portfolio of electricity resources to supply the electric needs of Program customers.
- *Risk Management* – application of standard industry techniques to reduce exposure to the volatility of energy and credit markets, and insulate customer rates from sudden changes in wholesale market prices.
- *Load Forecasting* – develop load forecasts, both long-term for resource planning and short-term for the electricity purchases and sales needed to maintain a balance between hourly resources and loads.
- *Scheduling Coordination* – scheduling and settling electric supply transactions with the California Independent System Operator (“CAISO”).

OCPA has contracted with experienced and financially sound third-party energy services providers to perform all electric supply operations for the Program. These requirements include the procurement of energy, capacity and ancillary services, scheduling coordinator services, short-term load forecasting and day-ahead and real-time electricity trading.

### **Local Energy Programs**

A key focus of the Program will be the development and implementation of local energy programs, including energy efficiency programs, distributed generation programs (*i.e.*, behind the meter solar or community projects), and other energy programs responsive to community interests. These programs are likely to be phased in during the first several years of Program operations. The implementation of such programs will follow the attainment of requisite funding sources.

OCPA will administer energy efficiency, demand response and distributed generation programs that can be used as cost-effective alternatives to procurement of supply-resources. OCPA will attempt to consolidate existing demand-side programs into the Program and leverage the structure to expand energy efficiency offerings to customers throughout its service territory, including the CPUC application process for third party administration of energy efficiency programs and use of funds collected through the existing public benefits surcharges paid by OCPA customers. In 2021, OCPA began the process to obtain CPUC funds for energy efficiency programs.

### **Governmental Affairs & General Counsel**

The Program will require ongoing regulatory and legislative representation to manage various regulatory compliance filings related to resource plans, resource adequacy, compliance with

California’s Renewables Portfolio Standard (“RPS”), and overall representation on issues that will impact OCPA, its Members, and customers. OCPA will maintain an active role at the CPUC, the California Energy Commission, CAISO, the California Legislature and, as necessary, the Federal Energy Regulatory Commission.

In coordination with the CEO and Board, OCPA has retained outside legal assistance in the areas of general counsel and regulatory advice/engagement to support the Program’s administrative operations and governance, review contracts, monitor regulatory proceedings and provide overall legal support related to the various activities within the Program.

## Chapter 4 – Start-Up Plan & Funding

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This Chapter presents OCPA’s plans for the start-up period, including necessary expenses and capital outlays. The start-up period is defined as the period where OCPA requires financing for Program implementation. The start-up period is split into pre-launch and post-launch expenses. The pre-launch period began January 1, 2021 and ends on March 31, 2022 when OCPA plans to begin service to customers. Pre-launch expenses include overhead and notification for program implementation. Post launch financing includes working capital and annual debt repayment. As described in the previous Chapter, OCPA may utilize a mix of staff and contractors in its Program implementation.

### Start-Up Activities

OCPA has completed or is in process to complete most of the start-up activities needed to begin operation. The initial Program start-up activities include the following:

- Hire staff and/or contractors to manage implementation (partially complete)
- Identify qualified suppliers (of requisite energy products and related services) and negotiate supplier contracts (partially complete)
  - Electric supplier and scheduling coordinator
  - Data management provider (if separate from energy supply)
  - Define and execute communications plan
  - Customer research/information gathering
- Media campaign (ongoing)
  - Key customer/stakeholder outreach
  - Informational materials and customer notices
- Customer call center (ongoing)
- Post CCA bond and complete requisite registration requirements (complete)
- Pay utility service initiation, notification and switching fees (ongoing)
- Perform customer notification, opt-out and transfers (ongoing)
- Conduct load forecasting (complete and ongoing)
- Establish rates (in process)
- Legal and regulatory support (ongoing)
- Financial management and reporting (ongoing)

Other costs related to starting up the Program will be the responsibility of the Program’s contractors (and are assumed to be covered later by any fees/charges imposed by such contractors). These may include capital requirements needed for collateral/credit support for electric supply expenses, customer information system costs, electronic data exchange system costs, call center costs, and billing administration/settlements systems costs.

### **Staffing and Contract Services**

Personnel in the form of OCPA staff or contractors will be added incrementally to match workloads involved in implementing the Program, managing contracts, and initiating customer outreach/marketing. During the start-up period, personnel requirements would include the CEO, a General Counsel, Chief Financial Officer (“CFO”) and other personnel needed to support regulatory, procurement, finance, and communications activities.

For budgetary purposes, it is assumed that 5-10 full-time equivalents (staff or contracted professional services) will be supporting the above listed activities and would be engaged during the initial start-up period. OCPA has already hired two of these full-time positions. Additional staff and/or contractors may be retained, as needed, to support the roll-out of additional value-added services (*e.g.*, efficiency projects) and local generation projects and programs.

### **Capital Requirements**

The start-up of the Program will require capital for three major functions: (1) staffing and contractor costs; (2) deposits and reserves; and (3) working capital. Based on the Program’s anticipated start-up activities and phase-in schedule, a total need of \$42.75 million has been identified to support the aforementioned functions. The finance plan in Chapter 7 provides some additional detail regarding OCPA’s expected capital requirements and general Program finances.

Related to OCPA’s initial capital requirement, this amount is expected to cover staffing and contractor costs during start-up and pre-start-up activities, including direct costs related to public relations support, technical support, and customer communications. Requisite deposits and operating reserves are reflected in the initial capital requirement, including the following items: 1) operating reserves to address anticipated cash flow variations (as well as operating reserve deposits that will likely be required by OCPA’s power supplier(s)); 2) requisite deposit with the CAISO prior to commencing market operations; and 3) SCE/SDG&E financial security requirements.

Operating revenues from sales of electricity will be remitted to OCPA approximately sixty days after the initial customer launch. This lag is due to SCE’s/SDG&E’s standard meter reading cycle of 30 days and a 30-day payment/collections cycle. OCPA will need working capital to support electricity procurement and costs related to program management. This is included in OCPA’s initial capital requirements.

### **Financing Plan**

OCPA’s initial capital requirement has been provided via a combination of cash contributions from the City of Irvine and loans from a conventional financial institution. These loans will be repaid by OCPA no later than 2027. The Program will recover the principal and interest costs associated with the start-up funding via retail generation rates charged to Program customers.



## Chapter 5 – Program Phase-In

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OCPA will roll out its service offering to customers over the course of the following phases:

Phase 1 – Four Cities All Non-Residential Accounts (April 1, 2022)

Phase 2 – Four Cities Residential Accounts (October 1, 2022)

Phase 3 – County of Orange All Accounts (Sometime after January 1, 2023)

This approach provides the Program with the ability to initiate its activities with sufficient economic scale before building to full Program integration for an expected customer base of approximately 350,000 accounts. OCPA will offer service to all customers on a phased basis, which is expected to be completed within 18 months of initial service to Phase 1 customers.

The Program will begin on April 1, 2022. At start-up, OCPA anticipates serving approximately 33,000 larger commercial and industrial customers, comprised of all non-residential accounts within the four Cities. Net energy metering accounts will be phased into OCPA at the time of their annual true-up.

### **Additional Members Roll-Out**

Additional cities can join OCPA at any time they decide to join. This leaves room for OCPA to expand its territory. An updated Implementation Plan will be submitted to the CPUC, if any new members join the Program, however, load will not be served until the year following the filing, in accordance with the Resource Adequacy Proceeding and Resolution E-4907.

### **New Residential and Non-Residential Customers**

For any new customers moving into the OCPA service territory after it has begun servicing load, OCPA intends to provide service to all customer classes (*i.e.*, residential, commercial, and NEM customers) within one billing cycle. However, if a customer moves into the OCPA region prior to April 1 or October 1 launch, the Program will begin to service the load-based upon the timelines stated above.

## Chapter 6 – Load Forecast & Resource Plan

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### Introduction

This Chapter describes the planned mix of electric resources that will meet the energy demands of Program customers using a diversified portfolio of electricity supplies. Several overarching policies govern the Resource Plan (“Plan”) and the ensuing resource procurement activities that will be conducted in accordance with the Plan. These key policies are as follows:

- The Program will manage a diverse resource portfolio to increase control over energy costs and maintain competitive and stable electric rates.
- The Program will seek to increase use of renewable energy resources and distributed energy resources in order to reduce reliance on fossil-fueled electric generation for purposes of reducing electric sector GHG emissions.
- The Program will apply for the administration of energy efficiency program funding to help customers reduce energy costs through enhanced customer energy efficiency, distributed generation, and other demand reducing programs.
- The Program will benefit the area’s economy through lower electric bills and investment in local infrastructure, energy projects and energy programs.

The Program’s initial resource mix will include a proportion of renewable energy meeting California’s prevailing RPS procurement mandate. As the Program moves forward, incremental renewable supply additions will be made based on resource availability as well as economic goals of the Program to achieve increased renewable energy content over time.

OCPA’s commitment to renewable generation adoption may involve both direct investment in new renewable generating resources, partnerships with other public power developers/operators and purchases of renewable energy from third party suppliers.

The Plan described in this Chapter would accomplish the following:

- Procure energy through one or more contracts with experienced, financially stable energy suppliers sufficient to offer three distinct resource portfolio rate tariffs: 1) 100 percent renewable energy; 2) 70 percent renewable energy; and 3) renewable energy equal to the RPS requirement.
- Choose the default option into which customers will be enrolled when service begins. After enrollment, customers will be allowed to participate in any of the three available resource portfolio options.
- Continue increasing renewable energy supplies over time to meet or exceed RPS mandates, subject to resource availability and economic viability.
- Actively pursue energy efficiency projects and programs using Program revenues, and/or other third-party funding in collaboration with the other efficiency program administrators in the region. Additionally, if OCPA is successful in applying for administration of public funding to support locally administered efficiency programs, it will even more robustly work to reduce net electricity purchases within the region.

- Encourage distributed renewable generation in the local area through the offering of a net energy metering tariff, a possible standardized power purchase agreement or “Feed-In Tariff,” and other creative, customer-focused programs targeting increased access to local renewable energy sources.

The Program will comply with regulatory rules applicable to California load serving entities. The Program will arrange for the scheduling of sufficient electric supplies to meet the demands of its customers. The Program will adhere to capacity reserve requirements established by the CPUC and the CAISO designed to address uncertainty in load forecasts and potential supply disruptions caused by generator outages and/or transmission contingencies. These rules also ensure that physical generation capacity is in place to serve OCPA’s customers. In addition, OCPA will be responsible for ensuring that its resource mix contains sufficient production from renewable energy resources needed to comply with the statewide RPS (38.5 percent in 2022, increasing to 60 percent by 2030). The Program will meet or exceed all the applicable regulatory requirements related to resource adequacy and the RPS.

### **Resource Plan Overview**

To meet the aforementioned objectives and satisfy the applicable regulatory requirements pertaining to OCPA’s status as a California load serving entity, the Plan includes a diverse mix of power purchases, renewable energy, distributed energy, new energy efficiency programs, demand response and distributed generation. A diversified Plan minimizes risk and volatility that can occur from overreliance on a single resource type or fuel source, and thus increases the likelihood of rate stability. The ultimate goal of the Plan is to reduce electric sector GHG emissions while offering competitive generation rates to Program customers. The planned power supply is initially comprised of power purchases from third party electric suppliers and, in the longer-term, may also include renewable generation assets owned or controlled by OCPA.

Once the Program operations are fully functional, OCPA may begin evaluating opportunities for investment in renewable generating assets, subject to then-current market conditions, statutory requirements, financial constraints and regulatory considerations. Any renewable generation owned by OCPA or controlled under long-term power purchase agreement with a power developer, could provide a portion of the Program’s electricity requirements on a cost-of-service basis. A cost-of-service basis means that the cost of power is based on the variable cost to operate the generation asset. Depending upon market conditions and, importantly, the applicability of tax incentives for renewable energy development, electricity purchased under a cost-of-service arrangement can be more cost-effective than purchasing renewable energy from third-party developers. This option will allow the Program to pass on cost savings to its customers through more competitive generation rates. Any investment decisions will be made following thorough environmental reviews and in consultation with qualified financial and legal advisors and approval by the Board.

As an alternative to direct investment, OCPA may consider partnering with an experienced power developer and could enter into a long-term (10 years or more) power purchase agreement that

would support the development of new renewable generating capacity. Such an arrangement could be structured to reduce the Program’s operational risk associated with capacity ownership while providing its customers with all renewable energy generated by the facility under contract. This option may be attractive as it works to achieve increasing levels of renewable energy supply and competitive rate levels for its customers.

The Program will integrate conventional supply-side resources (solar, market, etc.) with programs that will help customers reduce their energy costs through improved energy efficiency and other demand-side measures. As part of its IRP, the Program will actively pursue, promote, and ultimately administer a variety of customer energy efficiency programs that can cost-effectively displace supply-side resources.

The Program’s indicative Plan for the years 2022 through 2031 is summarized in the following Table 3. Subject to the availability of funds, a sizable percentage of the conventional resources reflected in Table 3 may be displaced with GHG-free resources.

**Table 3**  
**Orange County Power Authority**  
**Proposed Resource Plan (GWh)**

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031
<b>OCPA Demand (GWh)</b>										
Retail Demand	1,897	4,461	4,483	4,506	4,528	4,551	4,574	4,597	4,620	4,643
Distributed Generation	0	0	0	0	0	0	0	0	0	0
Energy Efficiency	0	0	0	0	0	0	0	0	0	0
Losses and UFE	106	249	250	252	253	254	255	257	258	259
<b>TOTAL DEMAND</b>	<b>2,003</b>	<b>4,710</b>	<b>4,734</b>	<b>4,758</b>	<b>4,781</b>	<b>4,805</b>	<b>4,829</b>	<b>4,853</b>	<b>4,878</b>	<b>4,902</b>
<b>OCPA Supply (GWh)</b>										
Total Renewable Resources	745	1,908	2,035	2,164	2,290	2,421	2,554	2,683	2,818	2,909
Total Conventional Resources	1,258	2,802	2,698	2,593	2,491	2,384	2,276	2,170	2,060	1,993
<b>TOTAL SUPPLY</b>	<b>2,003</b>	<b>4,710</b>	<b>4,734</b>	<b>4,758</b>	<b>4,781</b>	<b>4,805</b>	<b>4,829</b>	<b>4,853</b>	<b>4,878</b>	<b>4,902</b>
Energy Open Position	0	0	0	0	0	0	0	0	0	0

### Load Forecast

The Program’s load forecast is developed based on customer and consumption data provided by SCE and SDG&E. Program participation rates are assumed to be 95 percent for residential, lighting, and agricultural customers, and 90 percent for commercial and industrial customers. Hourly load profiles are applied to customer rate classes and summed up to develop Program system loads by month and hour. The electric sales forecast and load profile will be affected by customer phases in schedules. OCPA’s phase in schedule and assumptions regarding customer participation rates are discussed below.

### Customer Participation Rates

Customers will be automatically enrolled in the Program unless they opt-out during the customer notification process. The Program anticipates a 90-95 percent enrollment of SCE and SDG&E bundled service customers into the Program, based on reported opt-out rates for the other CCAs in California. It is assumed that new and existing non-residential Direct Access (“DA”) customers will continue to remain with their current electricity supplier.

The Program participation rate is not expected to vary significantly among customer classes, in part due to the fact that the Program will offer three distinct resource portfolio tariffs that will address the needs of cost-sensitive customers as well as the needs of both residential and business customers that prefer a highly renewable energy product.

### Customer Forecast

Once customers enroll in each phase, they will be switched over to service by OCPA on their regularly scheduled meter read date over an approximately thirty-day period. The estimated number of accounts by rate class is shown in Table 4 below.

**Table 4**  
**Orange County Power Authority**  
**Eligible Retail Service Accounts<sup>1</sup>**  
**Not Adjusted for Participation Rates**

OCA Customers	Phase 1 April 2022 Total Eligible Accounts	Phase 2 October 2022 Total Eligible Accounts	Phase 3 January 2023 Total Eligible Accounts
Residential	--	265,785	337,720
Small Commercial	29,468	29,468	39,203
Medium Commercial	5,203	5,203	6,905
Large Commercial	405	405	521
Industrial	164	164	231
Street Lighting & Traffic	3,455	3,455	4,503
Agricultural & Pumping	165	165	251
<b>Total</b>	<b>38,859</b>	<b>304,644</b>	<b>389,333</b>

1. Before assumed participation rates are applied.

OCPA assumes that customer growth will generally offset customer attrition (opt-outs) over time, resulting in a relatively stable customer base (0.5 percent annual growth) over the noted planning horizon. OCPA believes that its assumptions regarding the offsetting effects of growth and attrition are reasonable in consideration of the historical customer growth within OCPA’s service area and the potential for continuing customer opt-outs following mandatory customer notification periods. The forecast of service accounts (customers) served by the Program for each of the next ten years is shown in Table 5.

**Table 5  
Orange County Power Authority  
Retail Service Accounts (End of Year)<sup>1</sup>**

<b>OCA Customers</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>	<b>2031</b>
Residential	253,100	321,500	323,100	324,700	326,300	327,900	329,600	331,200	332,900	334,600
Small Commercial	26,800	35,600	35,700	35,900	36,100	36,300	36,500	36,600	36,800	37,000
Medium Commercial	886	2,399	2,412	2,425	2,437	2,450	2,463	2,475	2,488	2,500
Large Commercial	4,730	4,855	4,879	4,904	4,929	4,953	4,978	5,002	5,027	5,053
Industrial	368	429	432	434	436	439	441	443	445	448
Street Lighting & Traffic	120	1,101	1,107	1,112	1,118	1,124	1,130	1,136	1,142	1,147
Agricultural & Pumping	24	105	105	106	106	106	107	107	108	108
<b>Total</b>	<b>286,028</b>	<b>365,989</b>	<b>367,735</b>	<b>369,581</b>	<b>371,426</b>	<b>373,272</b>	<b>375,219</b>	<b>376,963</b>	<b>378,910</b>	<b>380,856</b>

1. After assumed participation rates are applied.

### Sales Forecast

OCPA’s forecast of GWh sales reflects the roll-out and customer enrollment schedule shown above. Annual energy requirements are shown below in GWh.

**Table 6  
Orange County Power Authority  
Annual Energy Requirements (GWh) 2022 to 2031**

<b>OCPA Energy Requirement (GWh)</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>	<b>2031</b>
Retail Energy	1,897	4,461	4,483	4,506	4,528	4,551	4,574	4,597	4,620	4,643
Losses and UFE	106	249	250	252	253	254	255	257	258	259
<b>Total Load Requirement</b>	<b>2,003</b>	<b>4,710</b>	<b>4,734</b>	<b>4,758</b>	<b>4,781</b>	<b>4,805</b>	<b>4,829</b>	<b>4,853</b>	<b>4,878</b>	<b>4,902</b>

### Capacity Requirements/Resource Adequacy

The CPUC’s Resource Adequacy standards applicable to the Program require a demonstration one year in advance that the Program has secured physical capacity for 90 percent of its projected peak loads for each of the five months May through September, plus a minimum 15 percent reserve margin. On a month-ahead basis, OCPA must demonstrate 100 percent of the peak load plus a minimum 15 percent reserve margin.

A portion of the Program’s capacity requirements must be procured locally from the SCE area as defined by the CAISO. Local resource adequacy needs will be defined by the CPUC annually based on their capacity study. A local resource for the Program is likely to be located within the LA Basin as noted on Table 7 below.

**Table 7  
CAISO Local Capacity Area Map<sup>2</sup>**



The local resource adequacy requirements are a percentage of the total (SCE/SDG&E service area) local capacity requirements adopted by the CPUC based on the Program’s forecasted peak load. For calendar year 2022, OCPA must be responsible for local resource compliance or request a waiver from the CPUC requirement as provided for in cases where local capacity is not available. As the Central Procurement Entity (“CPE”), begins operation in 2023, the CPE will be responsible for meeting the Program’s local resource adequacy requirements.

The Program is also required to demonstrate that a specified portion of its capacity meets certain operational flexibility requirements under the CPUC and CAISO’s flexible resource adequacy framework. The estimated forward resource adequacy requirements for 2022 through 2024 are shown in the following tables.<sup>3</sup>

<sup>2</sup> CAISO. 2021 Local Capacity Area Technical Study Draft. October 24, 2019.

<sup>3</sup> The figures shown are estimates. OCPA’s resource adequacy requirements will be subject to modification due to application of certain coincidence adjustments and resource allocations relating to utility demand response and energy efficiency programs, as well as generation capacity allocated through the Cost Allocation Mechanism. These adjustments are addressed through the CPUC’s resource adequacy compliance process.

**Table 8  
Orange County Power Authority  
Peak Demand Forecast (MW)  
2022 to 2024**

Month	2022	2023	2024
January		588	591
February		587	590
March		589	592
April	214	757	761
May	344	694	698
June	360	812	816
July	392	868	872
August	403	1,017	1,022
September	402	1,050	1,055
October	634	985	989
November	508	637	641
December	486	629	632

The Program will ensure that sufficient reserves will be procured to meet its peak load at all times. The Program’s projected annual resource adequacy or capacity requirements are shown in the following table.

**Table 9  
Orange County Power Authority  
Capacity Requirements (MW)  
2022 to 2031**

Demand (MW)	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031
Retail Demand	634	1,050	1,055	1,060	1,066	1,071	1,076	1,082	1,087	1,093
Losses and UFE	35	59	59	59	59	60	60	60	61	61
Total Net Peak Demand	669	1,108	1,114	1,120	1,125	1,131	1,136	1,142	1,148	1,154
Reserve Requirement (%)	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%
Capacity Reserve Requirement	100	166	167	168	169	170	170	171	172	173
Capacity Requirement Including Reserve	770	1,275	1,281	1,288	1,294	1,300	1,307	1,313	1,320	1,327

The Program will coordinate with SCE and SDG&E and appropriate state agencies to manage the transition of responsibility for resource adequacy from SCE and SDG&E to OCPA during the Program’s phase-in. For system resource adequacy requirements, the Program will make month-ahead showings for each month that OCPA plans to serve load, and load migration issues would be addressed through the CPUC’s approved procedures. OCPA will work with the California Energy Commission and CPUC prior to commencing service to customers to ensure it meets its local and system resource adequacy obligations through its agreement(s) with its chosen electric supplier(s).



## Renewables Portfolio Standard (“RPS”) Energy Requirements

### Basic RPS Requirements

As a CCA, OCPA will be required by law and CPUC regulations to procure a minimum percentage of its retail electricity sales from qualified renewable energy resources. For purposes of determining the Program’s renewable energy requirements, the same standards for RPS compliance that are applicable to all of utilities are assumed to apply to the Program.

California’s RPS requires the Program to purchase a minimum of 60 percent renewable energy by 2030. OCPA will also adopt an IRP in compliance with SB 350. OCPA understands that various details related to this planning requirement are continuing to be developed, and OCPA intends to monitor and participate, as appropriate, in pertinent proceedings to promote the preparation and submittal of a responsive planning document. Furthermore, OCPA will ensure that all long-term renewable energy contracting requirements, as imposed by SB 350, will be satisfied through appropriate transactions with qualified suppliers and will also reflect this intent in ongoing resource planning and procurement efforts.

In September of 2018, SB 100 was signed into law. This bill calls for all electricity supplies in the State to be “carbon-free” by 2045. The legislation is important for all load serving entities (“LSE”) in that it tightens the RPS targets even from SB 350. The overall targets in SB 100 are as follows:

- 50 percent eligible renewable energy by 2026
- 60 percent eligible renewable by 2030
- 100 percent carbon free by 2045 (note “carbon-free” vs. “renewable”).

Table 10 summarizes the various California targets.

**Table 10**  
**California Renewable Portfolio Standards and Greenhouse Gas Mandates**

Target Date:	2017	2020	2026	2030	2045
RPS Goal	20%	33%	50%	60%	100% <sup>1</sup>
Year Passed	2002 (SB 1078)	2011 (SB 21X)	2018 (SB 100)	2018 (SB 100)	2018 (SB 100)

<sup>1</sup> 100 percent carbon free, 60 percent renewable.

For the purposes of meeting the RPS, what qualifies a resource as renewable varies by the resource’s location and type of contract. Resources which have their first point of interconnection or are delivered directly to the California grid (Balancing Authorities within California) and are contracted for by the LSE as energy bundled with their renewable energy credits (“RECs”) qualify as Portfolio Content Category 1 (“PCC1”) resources. Resources which sell energy and RECs together but are not necessarily connected to the California grid and not delivered simultaneously (*i.e.*, the energy may be “shaped” into flat blocks of power) qualify as PCC2 resources. RECs sold independently of the energy produced qualify as PCC3 resources.

### OCPA’s Renewables Portfolio Standards Requirement

OCPA’s annual RPS procurement requirements, as specified under California’s RPS program, are shown in Table 11 below. When reviewing Table 11, it is important to note that OCPA projects increases in energy efficiency savings as well as increases in locally situated distributed generation capacity, resulting in only a slight upward trend in projected retail electricity sales.

**Table 11**  
**Orange County Power Authority**  
**Minimum RPS Requirements (GWh)<sup>1</sup>**  
**2022 to 2031**

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031
Retail Sales	1,897	4,461	4,483	4,506	4,528	4,551	4,574	4,597	4,620	4,643
Renewable Energy Purchase	730	1,840	1,973	2,103	2,234	2,367	2,500	2,635	2,772	2,786
% Current Year Retail Sales	38.5%	41.3%	44.0%	46.7%	49.3%	52.0%	54.7%	57.3%	60%	60%
65% Long-Term Contracts	475	1,196	1,282	1,367	1,452	1,538	1,625	1,713	1,802	1,811

1. This table shows the minimum RPS requirements for OCPA projected loads. Note that Table 3 values differ because those values are based on the planned renewable purchases which are greater than the state mandate.

### Purchased Power

Power purchased from power marketers, public agencies, generators, or utilities will be a significant source of supply during the first several years of OCPA Program operation. OCPA will initially contract to obtain all of its electricity from one or more third party electric providers under one or more power supply agreements, and the supplier(s) will be responsible for procuring the specified resource mix, including the Program’s desired quantities of renewable energy, to provide a stable and cost-effective resource portfolio for the Program.

### Renewable Resources

OCPA will initially secure necessary renewable power supply from its third-party electric supplier(s). OCPA may supplement the renewable energy provided under the initial power supply contract(s) with direct purchases of renewable energy from renewable energy facilities or from renewable generation developed and owned by OCPA. At this point in time, it is not possible to predict what projects might be proposed in response to the Program’s current renewable energy solicitations, unsolicited proposals, or discussions with other agencies. Renewable projects that are located virtually anywhere in the western U.S. can be considered as long as the electricity is deliverable to the CAISO control area, as required to meet the Commission’s RPS rules and any additional guidelines ultimately adopted by OCPA. The costs of transmission access and the risk of transmission congestion costs would need to be considered in the bid evaluation process if the delivery point is outside of OCPA’s load zone, as defined by the CAISO. OCPA is currently receiving proposals for renewable energy.

### **Energy Efficiency**

OCPA's energy efficiency goals will reflect a commitment to increasing energy efficiency within its service area, expanding beyond the savings achieved by the incumbent utilities' current programs. To promote the achievement of this goal, OCPA is in the process of completing the CPUC application process for third party administration of energy efficiency programs and use of funds collected through the existing public benefits surcharges paid by OCPA customers. To the extent that OCPA is successful in this application process, it will seek to maximize end-use customer energy efficiency by facilitating customer participation in existing utility programs as well as by forming new programs that will displace OCPA's need for traditional electric procurement activities. Additional details related to OCPA's energy efficiency plan will be developed once the Program is underway.

### **Demand Response**

Demand response programs provide incentives to customers to reduce demand upon request by the load serving entity (*i.e.*, OCPA), reducing the amount of generation capacity that must be maintained as reserves. Demand response programs can be cost effective alternatives to procured capacity that would otherwise be needed to comply with California's resource adequacy requirements. These programs also provide rate benefits to customers who have the flexibility to reduce or shift consumption for relatively short periods of time when generation capacity is most scarce. Like energy efficiency, demand response can be a win/win proposition, providing economic benefits to the electric supplier as well as customer service benefits.

In its ruling on local resource adequacy, the CPUC found that dispatchable demand response resources as well as distributed generation resources should be counted for local capacity requirements and partially offset its local capacity requirements.

SCE offers several demand response programs to its customers, and the Program intends to recruit those customers that have shown a willingness to participate in utility programs into similar programs offered by OCPA. OCPA may also adopt a demand response program that enables it to request customer demand reductions during times when capacity is in short supply or spot market energy costs are exceptionally high.

Appropriate limits on customer curtailments, both in terms of the length of individual curtailments and the total number of curtailment hours that can be called should be included in the Program's demand response design. It will also be important to establish a reasonable measurement protocol for customer performance of its curtailment obligations and deploy technology to automate customer notifications and responses. Performance measurement should include establishing a customer specific baseline of usage prior to the curtailment request from which demand reductions can be measured. The Program may utilize experienced third-party contractors to design, implement and administer its demand response programs.

### **Distributed Generation**

Consistent with the Program’s policies and the state’s Energy Action Plan, clean distributed generation is a component of the IRP. The Program will work to promote deployment of photovoltaic (“PV”) plus storage systems within OCPA’s service territory, with the goal of optimizing the use of the available incentives that are funded through current utility distribution rates and public benefits surcharges. OCPA also plans to implement a net energy metering program and possibly a feed-in-tariff to promote local investment in distributed generation.

There are clear environmental benefits and strong customer interest in distributed PV systems. To support such systems, the Program may provide direct financial incentives from revenues funded by customer rates to further support use of solar power or other renewable resources within the local area. Due to the increasing penetration of solar PV in California’s energy mix, the Program will also consider incentives for behind the meter solar plus storage projects.

With regard to OCPA’s prospective net energy metering program, it is anticipated that the Program will allow participating customers to sell excess energy produced by customer-sited renewable generating sources to OCPA. Such a program would be generally consistent with principles identified in Assembly Bill 920 (“AB 920”), which directed the CPUC to establish and implement a compensation methodology for surplus renewable generation produced by net energy metered facilities located within the service territories of California’s large investor-owned utilities, including SCE and SDG&E. However, OCPA may choose to offer enhanced compensation structures, relative to those implemented as a result of AB 920, as part of the direct incentives that may be established to promote distributed generation development within OCPA’s service area. To the extent that incentives offered by OCPA improve project economics for its customers, it is reasonable to assume that the penetration of distributed generation within OCPA’s service area would increase.

## Chapter 7 – Financial Plan

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This Chapter examines the cash flows expected during the start-up and customer phase-in period of the Program and identifies the anticipated financing requirements. It includes estimates of Program start-up costs, including necessary expenses and capital outlays. It also describes the requirements for working capital and long-term financing for the potential investment in renewable generation, consistent with the Plan contained in Chapter 6.

### Description of Cash Flow Analysis

OCPA’s cash flow analysis estimates the level of capital that will be required during the start-up and phase-in period. The analysis focuses on the Program’s costs and revenues and specifically accounts for the phased enrollment of Program customers described in Chapter 5.

### Cost of CCA Program Operations

The first category of the cash flow analysis is the Cost of CCA Program Operations. To estimate the overall costs associated with CCA Program Operations, the following components were taken into consideration:

- Electricity Procurement
- Ancillary Service Requirements
- Grid Management and other CAISO Charges
- Scheduling Coordination
- Exit Fees
- Staffing and Professional Services
- Data Management Costs
- Administrative Overhead
- Billing Costs
- SCE and SDG&E Financial Security Requirements (“FSR”)
- Pre-Start-Up Cost
- Debt Service

### Revenues from CCA Program Operations

The cash flow analysis provides estimates for revenues generated from CCA operations or from electricity sales to customers. In determining the level of revenues, the analysis assumes the customer phase-in schedule described herein, and assumes that the Program charges a standard, default electricity tariff similar in rate design as the generation rates of the incumbent utility for each customer class and optional 100 percent and 70 percent renewable energy tariff, both at a premium reflective of incremental renewable power costs. More detail on Program rates can be found in Chapter 8. Projected revenues assume no rate discount compared with the incumbent utilities’ generation rates.

## **Cash Flow Analysis Results**

The results of the cash flow analysis provide an estimate of the level of capital required for the Program to move through the start-up and phase-in periods. This estimated level of capital is determined by examining the monthly cumulative net cash flows (revenues from CCA operations minus cost of CCA operations) based on assumptions for payment of costs or other cash requirements (*e.g.*, deposits) by OCPA, along with estimates for when customer payments will be received. This identifies what level of cash flow is available in terms of a surplus or deficit.

The cash flow analysis identifies funding requirements in recognition of the potential lag between revenues received and payments made during the phase-in period. The estimated financing requirements for the start-up and phase-in period, including working capital needs associated with all three phases of customer enrollments, was determined to be \$42.75 million. This \$42.75 million will be covered via a loan from the City of Irvine and external financing already authorized with a commercial bank.

## **CCA Program Implementation Pro Forma**

In addition to developing a cash flow analysis which estimates the level of working capital required to move OCPA through full CCA phase-in, a summary pro forma analysis that evaluates the financial performance of the Program is shown below. The difference between the cash flow analysis and the CCA pro forma analysis is that the pro forma analysis does not include a lag associated with payment streams. In essence, costs and revenues are reflected in the month in which service is provided. All other items, such as costs associated with Program operations and rates charged to customers remain the same. Cash provided by financing activities are shown in the pro forma analysis as are the payments for associated debt service.

The results of the pro forma analysis are shown in the following tables. In particular, the summary of Program start-up and phase-in addresses projected Program operations for the period beginning January 2021 through December 2031.<sup>4</sup>

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<sup>4</sup> Costs projected for staffing & professional services and other administrative & general relate to energy procurement, administration of energy efficiency and other local programs, generation development, customer service, marketing, accounting, finance, legal and regulatory activities necessary for program operation.

Orange County Power Authority Implementation Plan and Statement of Intent – Amendment No. 1

	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>	<b>2031</b>
<b>REVENUE AND OTHER SOURCES</b>										
Revenue - Electricity	\$183,115	\$416,482	\$418,036	\$419,595	\$427,346	\$435,237	\$443,292	\$451,532	\$459,923	\$468,470
Less: Uncollectible Accounts	-\$2,639	-\$5,206	-\$5,225	-\$5,245	-\$5,342	-\$5,440	-\$5,541	-\$5,644	-\$5,749	-\$5,856
Net Revenue - Electricity <sup>1</sup>	\$180,476	\$411,276	\$412,811	\$414,350	\$422,004	\$429,797	\$437,750	\$445,888	\$454,174	\$462,614
Investment and Miscellaneous Income	\$1	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Net Revenue and Other Sources</b>	<b>\$180,478</b>	<b>\$411,276</b>	<b>\$412,811</b>	<b>\$414,350</b>	<b>\$422,004</b>	<b>\$429,797</b>	<b>\$437,750</b>	<b>\$445,888</b>	<b>\$454,174</b>	<b>\$462,614</b>
<b>EXPENDITURES</b>										
Power Supply	\$197,897	\$414,614	\$384,002	\$379,789	\$359,854	\$369,614	\$379,667	\$389,976	\$400,645	\$410,661
Non-Power O&M										
Data Manager	\$364	\$3,743	\$3,762	\$3,867	\$4,382	\$4,510	\$4,639	\$4,772	\$4,909	\$5,050
Utilities Service Fees	\$140	\$586	\$602	\$620	\$638	\$657	\$676	\$696	\$716	\$737
Staffing Costs	\$2,929	\$5,220	\$5,412	\$5,593	\$5,775	\$5,960	\$6,147	\$6,338	\$6,534	\$6,737
Contract Services	\$1,790	\$2,801	\$1,929	\$1,924	\$1,978	\$2,034	\$2,091	\$2,149	\$2,209	\$2,271
Legal Services	\$357	\$365	\$373	\$382	\$392	\$401	\$411	\$421	\$431	\$441
Marketing and Customer Enrollment	\$152	\$104	\$107	\$109	\$112	\$115	\$117	\$120	\$123	\$126
Other G&A	\$346	\$366	\$374	\$383	\$393	\$402	\$412	\$422	\$432	\$442
<b>Subtotal</b>	<b>\$203,974</b>	<b>\$427,798</b>	<b>\$396,562</b>	<b>\$392,668</b>	<b>\$373,523</b>	<b>\$383,693</b>	<b>\$394,161</b>	<b>\$404,894</b>	<b>\$416,000</b>	<b>\$426,465</b>
<b>DEBT SERVICE</b>										
Principal and Interest	\$455	\$532	\$10,297	\$10,297	\$10,296	\$2,833	\$70	\$70	\$70	\$0
<b>Total Expenditures and Other Uses</b>	<b>\$204,429</b>	<b>\$428,330</b>	<b>\$406,859</b>	<b>\$402,965</b>	<b>\$383,820</b>	<b>\$386,525</b>	<b>\$394,231</b>	<b>\$404,964</b>	<b>\$416,070</b>	<b>\$426,465</b>
Net Income	-\$23,951	-\$17,054	\$5,952	\$11,385	\$38,185	\$43,271	\$43,520	\$40,924	\$38,105	\$36,149
Debt Proceeds	\$23,951	\$6,049	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cumulative Net Income Available for Reserves	\$0	-\$11,005	-\$5,053	\$6,332	\$44,517	\$87,788	\$131,308	\$172,232	\$210,336	\$246,485

1. Assumes no OCPA rate discount.

The surpluses achieved during this period serve to build the Program’s net financial position and credit profile, and to provide operating reserves for the Program in the event that operating costs (such as power purchase costs) exceed collected revenues for short periods of time. In addition, financial surpluses could be used to provide a Program generation rate discount, increase renewable and GHG-free resource purchases, accumulate additional cash reserves and/or fund customer programs. The priority for using these surplus proceeds will be determined by the Board.

### **OCPA Financing**

The Program has already secured financing from the City of Irvine and a commercial bank. After start-up, subsequent capital requirements will be funded internally from the Program’s accrued financial reserves. The anticipated financing approach is described below.

### **CCA Program Start-up and Working Capital**

As previously discussed, the anticipated start-up and working capital requirements for the Program are \$42.75 million. This amount is dependent upon the electric load served by the Program, actual energy prices, payment terms established with the third-party supplier and Program rates. This \$42.75 million will be refined during the start-up period as these variables become known. Once the Program is up and running, all costs would be recovered from customers through retail rates.

### **Renewable Resource Project Financing**

OCPA may consider project financings for renewable resources, likely local wind, solar, biomass or geothermal as well as energy efficiency projects. These financings would only occur after a sustained period of successful Program operation, and after appropriate project opportunities are identified and subjected to appropriate environmental review. OCPA’s ability to directly finance projects will likely require a track record of successful Program operations demonstrating strong underlying credit to support the financing.

In the event that such financing occurs, funds would include any short-term financing for the renewable resource project development costs, and financing would likely extend over a 20- to 30-year term. The security for such financing would be the revenue from sales to the retail customers of the Program.



## Chapter 8 – Rate Setting, Program Terms and Conditions

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### Introduction

This Chapter describes the initial policies proposed for OCPA in setting its rates for electric aggregation services. These include policies regarding rate design, rate objectives and provision for due process in setting Program rates. Program rates are ultimately approved by the Board. OCPA would retain authority to modify Program policies from time to time at the Board’s discretion.

### Rate Policies

OCPA will establish rates sufficient to recover all costs related to operation of the Program, including any reserves that may be required as a condition of financing and other discretionary reserve funds that may be approved by the Board. As a general policy, rates will be uniform for all similarly situated customers enrolled in the Program throughout the service area.

The primary objectives of the rate setting plan are to set rates that achieve the following:

- Rate competitive tariff option including a proportionate quantity of renewable energy meeting California’s prevailing renewable energy procurement mandate
- 100 percent renewable energy supply option/70 percent renewable energy supply option
- Allow individual Members to choose the default energy supply option into which their customers will be enrolled
- Allow customers to participate in any of the three energy supply options after enrollment
- Rate stability
- Equity among customers in each tariff
- Customer understanding
- Revenue sufficiency

Each of these objectives is described below.

### Rate Competitiveness

OCPA’s primary goal is to offer its customers competitive rates for electric services relative to the incumbent utilities. As planned, the value provided by the Program will also include options for a higher proportion of renewable energy and reduced GHG emissions relative to the incumbent utilities, enhanced energy efficiency and customer programs, community focus, local investment and control. OCPA currently plans to offer customers rates that are competitive to SCE and SDG&E bundled rates. Final rates for the launch phase will be subject to final power price bids.

As previously discussed, the Program will offer increased renewable energy supply to program customers, relative to SCE and SDG&E, by offering three distinct rate tariffs. The initial renewable energy content provided under the Program’s base tariff will meet California’s prevailing renewable energy procurement mandate, and OCPA will endeavor to increase this percentage on a going forward basis, subject to operational and economic constraints. The Program will also offer its customers a 70 percent and 100 percent renewable energy tariff, which will supply participating customers with reflective renewable energy supply at rates equal to the procurement cost for those portfolios.

Participating qualified low- or fixed-income households, such as those currently enrolled in the California Alternate Rates for Energy (“CARE”) program, will be automatically enrolled in the standard tariff and will continue to receive related discounts on monthly electricity bills through the incumbent utility.

### **Rate Stability**

The Program will offer stable rates by hedging its supply costs over multiple time horizons and by including longer-term renewable energy supplies that exhibit stable costs. OCPA will attempt to maintain general rate design parity with the incumbent utilities, or less, to ensure that Program rates are not drastically different from the competitive alternative.

### **Equity Among Customer Classes**

The Program’s initial rates will be set based on the rates offered by the incumbent utilities, subject to final power price bids. The level of rates will depend upon the default product chosen by the Member. Rate differences among customer classes will reflect the rates charged by the incumbent utilities as well as differences in the costs of providing service to each class. Rates may also vary among customers within the major customer class categories, depending upon the specific rate designs adopted by the Board.

### **Customer Understanding**

The goal of customer understanding involves rate designs that are relatively straightforward so that customers can readily understand how their bills are calculated. This not only minimizes customer confusion and dissatisfaction but will also result in fewer billing inquiries. Customer understanding also requires rate structures to reflect rational rate design principles (*i.e.*, there should not be differences in rates that are not justified by costs or by other policies such as providing incentives for conservation).

### **Revenue Sufficiency**

Program rates must collect sufficient revenue from participating customers to fully fund the Program’s annual budget. Rates will be set to collect the adopted budget based on a forecast of electric sales for the budget year. Rates will be adjusted as necessary to maintain the ability to fully recover all of costs of the Program, subject to the disclosure and due process policies described

later in this Chapter. To ensure rate stability, funds available in the Program’s rate stabilization fund may be used from time to time to augment operating revenues.

### **Rate Design**

The Program will initially match the rate structures from SCE and SDG&E standard rates to avoid the possibility that customers would see significantly different bill impacts as a result of changes in rate structures. In 2018 and 2020 respectively, SDG&E and SCE began to move bundled residential customers toward default time-of-use (“TOU”) rates. The Program anticipates that rates implemented at launch will be based on default SCE TOU rates. OCPA will review SCE and SDG&E rate structure changes and finalize the Program rates closer to the proposed launch date.

### **Custom Pricing Options**

OCPA may work to develop specially-tailored rate and electric service products that meet the specific load characteristics or power market risk profiles of larger commercial and industrial customers. This will allow such customers to have access to a wider range of products than is currently available with the incumbent utilities and potentially reduce the cost of power for these customers. Some examples of potential custom pricing options are rates that are based on an observable market index (e.g., CAISO prices) or fixed priced contracts of various terms.

### **Net Energy Metering**

As planned, customers with on-site generation eligible for net metering from the incumbent utilities will be offered a net energy metering rate from OCPA. Net energy metering allows for customers with certain qualified solar or wind distributed generation to be billed on the basis of their net energy consumption. OCPA plans to pay customers for excess power produced from net energy metered generation systems in accordance with the rate designs adopted by the Board.

### **Disclosure and Due Process in Setting Rates and Allocating Costs among Participants**

Initial Program rates will be adopted by the Board following the establishment of the first year’s operating budget prior to initiating the customer notification process. Subsequently, OCPA will prepare an annual budget and corresponding customer rates. Any proposed rate adjustment will be made by the Board and ample time will be given to affected customers to provide comment on the proposed rate changes.

After proposing a rate adjustment, the Program will furnish affected customers with a notice of its intent to adjust rates. The notices may be issued via separate mail to affected customers, as part of the regular billing and/or placed on the various social media options. The notice will provide a summary of the proposed rate adjustment and will include a link to the Program’s website where information will be posted regarding the amount of the proposed adjustment, a brief statement of the reasons for the adjustment and the mailing address of OCPA to which any customer inquiries relative to the proposed adjustment, including a request by the customer to receive notice of the date, time and place of any hearing on the proposed adjustment, may be directed.

## **Chapter 9 – Customer Rights and Responsibilities**

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This Chapter discusses customer rights, including the right to opt-out of the OCPA Program and the right to privacy of customer usage information, as well as obligations customers undertake upon agreement to enroll in the CCA Program. All customers that do not opt out within 30 days of the fourth enrollment notice will have agreed to become full status program participants and must adhere to the obligations set forth below, as may be modified and expanded by the Board from time to time.

By adopting this Amendment No. 1, OCPA will have approved the customer rights and responsibilities policies contained herein to be effective at Program initiation. OCPA retains authority to modify program policies from time to time at its discretion.

### **Customer Notices**

At the initiation of the customer enrollment process, a total of four notices will be provided to customers describing the Program, informing them of their opt-out rights to remain with utility bundled generation service and containing a simple mechanism for exercising their opt-out rights. The first notice will be mailed to customers approximately sixty days prior to the date of automatic enrollment. A second notice will be sent approximately thirty days later. OCPA will likely use its own mailing service for requisite enrollment notices rather than including the notices in SCE and SDG&E monthly bills. This is intended to increase the likelihood that customers will read the enrollment notices, which may otherwise be ignored if included as a bill insert. Customers may opt out by notifying OCPA using the Program’s designated telephone-based or internet opt-out processing service. Should customers choose to initiate an opt-out request by contacting SCE or SDG&E, as applicable, they would be transferred to the Program’s call center to complete the opt-out request. Consistent with CPUC regulations, notices returned as undelivered mail would be treated as a failure to opt out, and the customer would be automatically enrolled.

Following automatic enrollment, at least two addressed notices will be mailed to customers within the first two billing cycles (approximately sixty days) after OCPA service commences. Opt-out requests made on or before the sixtieth day following start of Program service will result in customer transfer to bundled utility service with no penalty. Such customers will be obligated to pay charges associated with the electric services provided by OCPA during the time the customer took service from the Program, but they will otherwise not be subject to any penalty or transfer fee from OCPA.

Customers who establish new electric service accounts within the Program’s service area will be automatically enrolled in the Program and will have sixty days from the start of service to opt out if they so desire. Such customers will be provided with two enrollment notices within this sixty-day post enrollment period. Such customers will also receive a notice detailing the Program’s privacy policy regarding customer usage information. OCPA will have the authority to implement entry fees for customers that initially opt out of the Program, but later decide to participate.

## **Termination Fee**

Customers that are automatically enrolled in the Program can elect to transfer back to SCE or SDG&E without penalty within the first two months of service. After this free opt-out period, customers will be allowed to terminate their participation but may be subject to payment of a Termination Fee. Customers that relocate within OCPA's service territory would have OCPA service continued at their new address. If a customer relocating to an address within OCPA's service territory elected to cancel OCPA service, the Termination Fee could be applied. Program customers that move out of OCPA's service territory would not be subject to the Termination Fee. If deemed applicable by OCPA, SCE and SDG&E would collect the Termination Fee from returning customers as part of OCPA's final bill to the customer.

For illustrative purposes, OCPA Termination Fees could be set at \$5 per residential account and \$25 per non-residential account. Actual fee amounts and requirements to impose Termination Fees are subject to a final determination by the Board.

If adopted, the Termination Fee would be clearly disclosed in all enrollment notices sent to customers during the sixty-day period before automatic enrollment and following commencement of service. The fee could also be changed prospectively by OCPA subject to applicable customer noticing requirements.

Customers electing to terminate service after the initial notification period would be transferred to their respective incumbent utility on their next regularly scheduled meter read date if the termination notice is received a minimum of fifteen days prior to that date. Such customers would also be liable for the nominal reentry fees imposed by SCE and SDG&E and would be required to remain on bundled utility service for a period of one year, as described in the utility CCA tariffs.

## **Customer Confidentiality**

OCPA will establish policies covering confidentiality of customer data that are fully compliant with the required privacy protection rules for CCA customer energy usage information, as detailed within Decision 12-08-045. OCPA will maintain the confidentiality of individual customer data including service addresses, billing addresses, telephone numbers, account numbers and electricity consumption, except where reasonably necessary to conduct business of OCPA or to provide services to customers, including but not limited to where such disclosure is necessary to (a) comply with the law or regulations; (b) enable OCPA to provide service to its customers; (c) collect unpaid bills; (d) obtain and provide credit reporting information; or (e) resolve customer disputes or inquiries. OCPA will not disclose customer information for telemarketing, e-mail or direct mail solicitation. Aggregate data may be released at OCPA's discretion.

## **Responsibility for Payment**

Customers will be obligated to pay Program charges for service provided through the date of transfer including any applicable Termination Fees. Pursuant to current CPUC regulations, OCPA will not be able to direct that electricity service be shut off for failure to pay OCPA bills. However,

the incumbent utilities have the right to shut off electricity to customers for failure to pay electricity bills, and SCE Electric Rule 23 and SDG&E Electric Rule 27 mandate that partial payments are to be allocated pro rata between the respective incumbent utility and the CCA. In most circumstances, customers would be returned to utility service for failure to pay bills in full and customer deposits (if any) would be withheld in the case of unpaid bills. The incumbent utility would attempt to collect any outstanding balance from customers in accordance with their Electric Rules and the related CCA Service Agreement.

The proposed process is for two late payment notices to be provided to the customer within 30 days of the original bill due date. If payment is not received within 45 days from the original due date, service would be transferred to the utility on the next regular meter read date, unless alternative payment arrangements have been made. Consistent with the CCA tariffs, service cannot be discontinued to a residential customer for a disputed amount if that customer has filed a complaint with the CPUC and that customer has paid the disputed amount into an escrow account.

### **Customer Deposits**

Under certain circumstances, OCPA customers may be required to post a deposit equal to the estimated charges for two months of CCA service prior to obtaining service from the Program. A deposit would be required for an applicant who previously had been a customer of SCE/SDG&E or OCPA and whose electric service has been discontinued by an incumbent utility or OCPA during the last twelve months of that prior service arrangement as a result of bill nonpayment. Such customers may be required to reestablish credit by depositing the prescribed amount. Additionally, a customer who fails to pay bills before they become past due (Discontinuance and Restoration of Service), and who further fails to pay such bills within five days after presentation of a discontinuance of service notice for nonpayment of bills, may be required to pay said bills and reestablish credit by depositing the prescribed amount. This rule will apply regardless of whether or not service has been discontinued for such nonpayment.<sup>5</sup> Failure to post deposit, as required, would cause the account service transfer request to be rejected, and the account would remain with the incumbent utility.

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<sup>5</sup> A customer whose service is discontinued by OCPA is returned to the incumbent utility's generation service.

## Chapter 10 - Procurement Process

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### Introduction

This Chapter describes OCPA’s initial procurement policies and the key third party service agreements by which OCPA will obtain operational services for the Program. By adopting Amendment No. 1, OCPA will have approved the general procurement policies contained herein to be effective at Program initiation. OCPA retains authority to modify Program policies from time to time at its discretion.

### Procurement Methods

OCPA will enter into agreements for a variety of services needed to support program development, operation and management. It is anticipated that OCPA will generally utilize competitive procurement methods for services but may also utilize direct procurement or sole source procurement, depending on the nature of the services to be procured. Direct procurement is the purchase of goods or services without competition when multiple sources of supply are available. Sole source procurement is generally to be performed only in the case of emergency or when a competitive process would be an idle act.

OCPA will utilize a competitive solicitation process to enter into agreements with entities providing electrical services for the Program. Agreements with entities that provide professional legal or consulting services, and agreements pertaining to unique or time sensitive opportunities, may be entered into on a direct procurement or sole source basis at OCPA’s discretion. Authority for terminating agreements will generally mirror the authority for entering into such agreements.

### Key Contracts

#### Electric Supply Contract

OCPA will initiate service using supply contracts with one or more qualified providers to supply sufficient electric energy resources to meet the Program’s customer demand as well as applicable resource adequacy requirements, ancillary and other necessary services. OCPA may complete additional solicitations to supplement its energy supply and/or to replace contract volumes provided under the original contract. OCPA would begin such procurement sufficiently in advance of contract expiration so that the transition from the initial supply contract occurs smoothly, avoiding dependence on market conditions existing at any single point in time. OCPA is currently evaluating power supply offers and should be finalizing these offers in the next two months.

OCPA has contracted with a certified Scheduling Coordinator to schedule loads and resources to meet Program customer demand and a Power Management Coordinator to help with longer-term power supply needs. OCPA may designate the Schedule Coordinator and/or Power Management Coordinator to be responsible for day-to-day energy supply operations of the Program and for managing the predominant supply risks for the term of all power contracts. The Scheduling Coordinator and Power Management Coordinator will ensure OCPA meets renewable energy

mandates as well as resource-specific mandates such as the storage requirement.<sup>6</sup> Finally, the Schedule Coordinator and Power Management Coordinator may be responsible for ensuring OCPA’s compliance with all applicable resource adequacy and regulatory requirements imposed by the CPUC or FERC.

OCPA has commenced the requisite competitive solicitation process to identify its initial energy supplier(s). At the time of this filing, OCPA has not executed any final electric supply contract but will be concluding certain contract negotiations shortly.

### **Data Management Contract**

OCPA’s data manager will provide the retail customer services of billing and other customer account services (electronic data interchange or EDI with SCE/SDG&E, billing, remittance processing and account management). A single contractor has been selected to perform all of the data management functions.

The data manager is responsible for the following services:

- Data exchange with SCE and SDG&E
- Technical testing
- Customer information system
- Customer call center
- Billing administration/retail settlements
- Settlement quality meter data reporting
- Reporting and audits of utility billing

Utilizing a third party for account services eliminates a significant expense associated with implementing a customer information system.

OCPA has completed its competitive solicitation process and retained a data manager and customer call center services consultant.

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<sup>6</sup> Assembly Bill 2514 requires LSEs to procure energy storage targets by 2020



# Chapter 11 – Contingency Plan for Program Termination

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## Introduction

This Chapter describes the process to be followed in the case of Program termination. By adopting this Amendment No. 1, OCPA will have approved the general termination process contained herein to be effective at Program initiation. In the unexpected event that OCPA would terminate the Program and return its customers to the incumbent utilities' service, the proposed process is designed to minimize the impacts on its customers and the incumbent utilities. The proposed termination plan follows the requirements set forth in SCE and SDG&E's tariffs governing service to CCAs. OCPA retains authority to modify program policies from time to time at its discretion.

## Termination by OCPA

OCPA will offer services for the long term with no planned Program termination date. In the unanticipated event that OCPA decides to terminate the Program, each of its Members would be required to adopt a termination ordinance or resolution and provide adequate notice to OCPA consistent with the terms set forth in the JPA Agreement. Following such notice, the Board would vote on Program termination subject to voting provisions as described in the JPA Agreement. In the event that OCPA affirmatively votes to proceed with JPA termination, OCPA would disband under the provisions identified in its JPA Agreement.

After any applicable restrictions on such termination have been satisfied, notice would be provided to customers six months in advance that they will be transferred back to the incumbent utility. A second notice would be provided during the final sixty days in advance of the transfer. The notice would describe the applicable distribution utility bundled service requirements for returning customers then in effect, such as any transitional or bundled portfolio service rules.

It is anticipated that one year of advance notice would be provided to the incumbent utilities and the CPUC before transferring customers, and OCPA would coordinate the customer transfer process to minimize impacts on customers and ensure no disruption in service. Once the customer notice period is complete, customers would be transferred *en masse* on the date of their regularly scheduled meter read date.

OCPA will post a bond or maintain funds held in reserve to pay for potential transaction fees charged to the Program for switching customers back to distribution utility service. Reserves would be maintained against the fees imposed for processing customer transfers ("FSR"). The Public Utilities Code requires demonstration of insurance or posting of a bond sufficient to cover reentry fees imposed on customers that are involuntarily returned to distribution utility service under certain circumstances. The cost of re-entry fees is the responsibility of the energy services provider or the community choice aggregator, except in the case of a customer returned for default or because its contract has expired. OCPA will post financial security in the appropriate amount as

part of its registration materials and will maintain the financial security in the required amount, as necessary.

### **Termination by Members**

Pursuant to the OCPA JPA Agreement, a Party may withdraw its membership in OCPA, effective as of the beginning of OCPA's fiscal year, by giving no less than one hundred eighty (180) days advance written notice of its election to do so. Notice must be provided to OCPA and each member Party. Withdrawal of a Party requires an affirmative vote of the Party's governing board. A Party that withdraws from OCPA may be subject to certain continuing liabilities as described in the OCPA JPA Agreement. The withdrawing Party and OCPA must execute and deliver all further instruments and documents, and take any further actions as may be reasonably necessary to effectuate the orderly withdrawal of such Party.

An OCPA member Party may be terminated for material non-compliance with provisions of the OCPA JPA upon a two-thirds vote of the entire Board (excluding the vote of the Party subject to possible termination). Prior to any vote to terminate a Party, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Party whose termination is proposed at least 30 days prior to the regular Board meeting at which such matter shall first be discussed as an agenda item. The Party subject to termination shall have the opportunity at the next regular Board meeting following the expiration of the 30-day notice period to respond to any reasons and allegations that may be cited as a basis for termination. The Party's response shall be evaluated at a public meeting prior to a vote regarding termination. A Party that has had its membership in the OCPA terminated may be subject to certain continuing liabilities, as described in the OCPA JPA Agreement.

## **Appendix – OCPA Joint Powers Agreement**

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## ORANGE COUNTY POWER AUTHORITY JOINT POWERS AGREEMENT

This Joint Powers Agreement (“**Agreement**”), effective as of the date specified in Section 1.2, below, which is November 20, 2020 (“**Effective Date**”) is made and entered into pursuant to the Joint Exercise of Powers Act (California Government Code § 6500 *et seq.*) relating to the joint exercise of powers among the parties set forth in Exhibit A. All parties that execute this Agreement prior to December 31, 2020 shall be designated individually as “**Founding Party**” and collectively as “**Founding Parties**”. All cities, counties, or other public agencies added as parties to this agreement after December 31, 2020 shall be designated individually as “**Additional Party**” and collectively “**Additional Parties**”. The term “**Party**” refers individually to any Founding Party or Additional Party, and the term “**Parties**” refers collectively to the Founding Parties and the Additional Parties.

### RECITALS

A. In 2002, Assembly Bill 117 (Stat. 2002, Ch. 838, codified at Public Utilities Code Sections 218.3, 366, 394, 394.25, 331.1 366.2, and 381.1) was signed into law allowing customers to aggregate their electrical loads as members of their local community with public agencies designated as community choice aggregators, and allowing such public agencies to aggregate the electrical load of interested consumers within their jurisdictional boundaries and purchase electricity on behalf of those consumers.

B. In 2006, Assembly Bill 32 (Stat. 2006, Ch. 488, codified at Health and Safety Code Sections 38500 *et seq.*), known as the Global Warming Solutions Act, was signed into law, mandating a reduction in greenhouse gas emissions to 1990 levels by 2020.

C. In 2015, Senate Bill 350 (Stat. 2015, Ch. 547, codified at Health and Safety Code Section 44258.5; Labor Code Section 1720; Public Resources Code Sections 25302.2, 25310, 25327 and 25943; and Public Utilities Code Sections 237.5, 337, 352, 359, 365.2, 366.3, 399.4, 399.11, 399.12, 399.13, 399.15, 399.16, 399.18, 399.21, 399.30, 454.51, 454.52, 454.55, 454.56, 701.1, 740.8, 740.12, 9505, 9620, 9621, 9622, and Article 17 (commencing with Public Utilities Code Section 400)) was signed into law, mandating a reduction in greenhouse gas emissions to 40 percent below 1990 levels by 2030 and to 80 percent below 1990 levels by 2050.

D. In 2018, Senate Bill 10 (Stat. 2018, Ch. 312, codified at Public Utilities Code sections 399.11, 399.15, 399.30, and 454.53) was signed into law, directing that the Renewables Portfolio Standard to be increased to 60 percent renewables by 2030 and establishing a policy for eligible renewable energy resources and zero-carbon resources to supply 100 percent of electricity retail sales to California end-use customers by 2045.

E. The Parties each hold various powers under California law, including, but not limited to, the power to purchase, supply, and aggregate electricity for themselves and customers within their jurisdictions in accordance with Public Utilities Code Sections 333.1 and 366.2; they are therefore properly empowered to enter into this Agreement under the Joint Exercise of Powers Act (Government Code Section 6500 *et seq.*, the “**Act**”).

F. The purposes for entering into this Agreement are more fully specified in subsection 1.4 below, but principally consist of the study, promotion, development, funding, financing, purchasing, conduct, operation, and management of energy, energy efficiency and conservation, and other energy-related and community choice aggregation programs (the “**CCA Program**”), through which the following objectives may be advanced: (a) reducing greenhouse gas emissions related to the use of power throughout the Parties’ jurisdictions and neighboring regions; (b) providing electric power and other forms of energy to customers at a competitive cost; (c) carrying out programs for ratepayers of all income levels to reduce energy consumption; (d) stimulating and sustaining the local economy by developing local jobs in renewable and conventional energy; and (e) promoting long-term electric rate stability, energy security and reliability for residents through local control of electric generation resources.

G. The Founding Parties desire to establish a separate public agency, known as the Orange County Power Authority (“**Authority**”), under the Act and consistent with Assembly Bill 117, in order to collectively implement the CCA Program, and to exercise any powers common to the Authority’s members to further these purposes.

H. The Parties have each adopted an ordinance electing to participate as a group in a community choice aggregation program through the Authority, as authorized by California Public Utilities Code § 366.2(a)(12)(B).

## **AGREEMENT**

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

### **SECTION 1. FORMATION OF AUTHORITY**

1.1 Creation of Agency. Pursuant to the Act there is hereby created a public entity to be known as The Orange County Power Authority. Pursuant to Section 6507 of the Act, the Authority is a public agency separate from the Parties. The jurisdiction of the Authority shall be all territory within the geographic boundaries of the Parties; however, the Authority may, as authorized under applicable law, undertake any action outside such geographic boundaries as is necessary to accomplish its purpose.

1.2 Effective Date and Term. This Agreement shall become effective and the Authority shall exist as a separate public agency on the date this Agreement is executed by at least two Parties. The Authority shall continue to exist, and this Agreement shall be effective, until this Agreement is terminated in accordance with this Agreement, subject to the rights of a Party to withdraw from the Authority.

1.3 Parties. The names, particular capacities, and addresses of the Parties are shown on Exhibit A, as it may be amended from time to time.

1.4 Purpose. The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party to implement the CCA Program, and to

exercise all other powers necessary and incidental to accomplishing this purpose. This Agreement authorizes the Authority to provide opportunities by which the Parties can work cooperatively to create economies of scale and implement sustainable energy initiatives that reduce energy demand, increase energy efficiency, provide consumer choice and cost savings, and advance the use of clean, efficient, and renewable resources in the region for the benefit of all the Parties and their constituents, including, but not limited to, establishing and operating a CCA Program (collectively, the “**Purpose**”). The Parties intend for this Agreement to be used as a contractual mechanism by which they are authorized to participate in the CCA Program and achieve the Purpose. The Parties intend that other agreements shall define the terms and conditions associated with the implementation of the CCA Program and any energy programs approved by the Authority.

## **SECTION 2. POWERS OF AUTHORITY**

2.1 Powers. The Authority shall have all powers common to the Parties and such additional powers accorded to it by law. The Authority is authorized, in its own name, to exercise all powers and do all acts necessary and proper to carry out the provisions of this Agreement and fulfill its Purpose, including, but not limited to, each of the following powers:

2.1.1 Serve as a forum for the consideration, study, and recommendation of energy services for the CCA Program;

2.1.2 To make and enter into any and all contracts to effectuate the purpose of this Agreement, including, but not limited to, those relating to the purchase or sale of electrical energy or attributes thereof, and related service agreements;

2.1.3 To employ agents and employees, including, but not limited to, engineers, attorneys, planners, financial consultants, and separate and apart therefrom to employ such other persons, as it deems necessary;

2.1.4 To acquire, contract, manage, maintain, and operate any buildings, works, or improvements, including, but not limited to, electric generation resources;

2.1.5 To acquire property by eminent domain, or otherwise, except as limited by Section 6508 of the Act, and to hold or dispose of property;

2.1.6 To lease or license any property;

2.1.7 To sue and be sued in its own name;

2.1.8 To incur debts, liabilities, and obligations, including, but not limited to, loans from private lending sources pursuant to its temporary borrowing powers, such as California Government Code § 53850 *et seq.* and authority under the Act;

2.1.9 To form subsidiary or independent corporations or entities, if appropriate, to carry out energy supply and energy conservation programs, or to take advantage of legislative or regulatory changes;

2.1.10 To issue revenue bonds and other forms of indebtedness;

2.1.11 To apply for, accept, and receive all licenses, permits, grants, loans, or other assistance from any federal, state, or local agency;

2.1.12 To submit documentation and notices, register, and comply with orders, tariffs, and agreements for the establishment and implementation of the CCA Program and other energy and climate change programs;

2.1.13 To adopt rules, regulations, policies, bylaws, and procedures governing the operation of the Authority;

2.1.14 To receive loans, gifts, contributions, and donations of property, funds, services, and other forms of financial assistance from persons, firms, corporations, and any governmental entity;

2.1.15 To make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer the CCA Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services;

2.1.16 To receive revenues from sale of electricity and other energy-related programs;

2.1.17 To partner or otherwise work cooperatively with other CCAs on the acquisition of electric resources, joint programs, advocacy and other efforts in the interests of the Authority; and

2.1.18 To the extent not specifically provided in this Agreement, to exercise any powers authorized by the member agencies to achieve the Authority's objectives and such further powers not specifically mentioned herein, but common to Parties, and authorized by the California Government Code.

2.2 Additional Powers to be Exercised. In addition to those powers common to each of the Parties, the Authority shall have those powers that may be conferred upon it by law and by subsequently enacted legislation.

2.3 Manner of Exercising Powers. The powers specified in subsections 2.1 and 2.2 shall be exercised by the Board (as defined in subsection 3.1, below), unless otherwise delegated to a committee of the Board or the Chief Executive Officer of the Authority in accordance with a Board adopted policy or action. All such powers shall be exercised in the manner set forth in this Agreement.

2.4 Limitation on Exercise of Powers: The powers of the Authority are subject to the restrictions upon the manner of exercising power possessed by the City of Irvine, California and

any other restrictions on exercising the powers of the Authority that may be adopted by the Authority's Board of Directors.

### **SECTION 3: GOVERNANCE**

3.1 General Governance; Board of Directors. The governing body of the Authority shall be a Board of Directors (“**Board**”) consisting of one director for each Party appointed in accordance with subsection 3.2, except the City of Irvine whose governing body shall appoint two directors (the “**Irvine Directors**”). Notwithstanding the foregoing, the governing body of the City of Irvine shall appoint one director upon the full satisfaction and repayment of the Capital Loan, as defined in subsection 5.5.

3.2 Appointment of Directors. The governing body of each Party shall appoint and designate in writing the Director(s) who shall be authorized to act for and on behalf of the Party on matters within the powers of the Authority. The governing body of each Party shall also appoint and designate in writing an alternate Director(s) who may vote in matters when the regular Director is absent from a Board meeting. The governing bodies of the Founding Parties may, in their sole discretion, elect to appoint their respective Director(s) prior to the Effective Date, in which case such appointment(s) to the Board shall take effect on the Effective Date. The persons appointed and designated as the regular Director and the alternate Director shall be a member of the governing body of the Party when appointed.

3.3 Terms of Office. Each regular and alternate Director shall serve a term of four years. If at any time a vacancy occurs on the Board, a replacement shall be appointed by the governing body to fill the position of the previous Director within ninety (90) days of the date that such position becomes vacant. Replacement Directors shall serve until the scheduled expiration of the four year term of the Board member that they replace.

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

3.5 Powers of the Board of Directors. The Board may exercise all the powers enumerated in this Agreement and shall conduct all business and activities of the Authority consistent with this Agreement and any bylaws, operating procedures, and applicable law.

3.6 Executive Committee. The Board shall establish an executive committee consisting of a smaller number of Directors upon the Authority's membership consisting of nine or more members. The initial members of the executive committee shall be the Directors of the Founding Members with the chair of the Board serving as chair of the Executive Committee.

3.7 Committees. The Board may establish committees as the Board deems appropriate to assist the Board in carrying out its functions and implementing the purposes of this Agreement. In accordance with subsection 2.3, the Board may delegate to any committees that consist solely of Board members any of the powers specified in subsection 2.1, except for the power to acquire property by eminent domain specified in subsection 2.1.5. Committees that include or consist of non-Board members shall be advisory only.



3.8 Director Compensation. The Board shall adopt policies establishing compensation attendance at Board and Committee meetings and work performed by each Director on behalf of the Authority as well as policies for the reimbursement of expenses incurred by each Director; provided that in no instance shall the per meeting or per day compensation be less than the compensation provided to directors of the Orange County Sanitation District.

3.9 Voting by the Board of Directors.

3.9.1 Equal Vote. Each Director or participating alternate shall have one vote. Except as provided for in Sections 3.9.2, 3.9.3 and 3.9.4, action of the Board on all matters shall require an affirmative vote of a majority of all Directors who are present at the subject meeting (“**Equal Vote**”).

3.9.2 Voting Shares Vote. Immediately after (and during the same Board Meeting as) an affirmative or tie Equal Vote, two or more Directors shall have the right to request and conduct a Voting Shares Vote (defined below) to reconsider that action approved by the Equal Vote. In the event of a Voting Shares Vote where the City of Irvine appoints two Directors to the Board and one or more Irvine Directors requests a Voting Shares Vote, a Party other than the City of Irvine must constitute the second Director for purposes of having the right to request and conduct a Voting Shares Vote. A “yes” vote on the Voting Shares Vote shall be a vote to reverse and reject the Equal Vote; a “no” vote on the Voting Shares Vote shall be a vote to affirm the Equal Vote. For Voting Shares Votes, votes shall be weighted as described in subsection 3.9.3. A “yes” vote on a Voting Shares Vote shall require (i) for votes requiring a majority under subsection 3.9.1, more than fifty percent (50%) of the voting shares of all Directors voting; (ii) for votes requiring a supermajority of two-thirds under this Agreement, sixty-seven percent (67%) or more of the voting shares of all Directors voting; and (iii) for votes requiring a supermajority of three quarters under this Agreement more than seventy-five percent (75%) of the voting shares of all Directors voting. All votes taken pursuant to this subsection 3.9.2 shall be referred to as a “**Voting Shares Vote**.” If a Voting Shares Vote yields a “no” vote, the legal effect is to affirm the Equal Vote with respect to which the Voting Shares Vote was taken. If the Voting Shares Vote succeeds, the legal effect is to nullify the Equal Vote with respect to which the Voting Shares Vote was taken. If the underlying Equal Vote was a tie, the Voting Shares Vote replaces that tie vote. No action may be taken solely by a Voting Shares Vote without first having taken an Equal Vote.

3.9.3 Voting Shares Formula. When a Voting Shares Vote is requested by two or more Directors, voting shares of each Director shall be determined by the following formula:

$$(\text{Annual Energy Use}/\text{Total Annual Energy}) \times 100$$

For purposes of this formula (a) “**Annual Energy Use**” means (i) for the first two years following the Effective Date, the annual electricity usage, expressed in kilowatt hours (“**kWh**”), within the jurisdiction of the Party appointing the Director(s) and (ii) following the second anniversary of the Effective Date, the annual electricity usage, expressed in kWh, of accounts within the jurisdiction of the Party appointing the Director(s) that are served by the Authority, and (b) “**Total Annual Energy**” means the sum of all Parties’ Annual Energy Use. The initial values for Annual Energy

use are designated in Exhibit B and the initial voting shares are designated in Exhibit C. Both Exhibit B and Exhibit C shall be adjusted annually as soon as reasonably practicable after January 1 of each year, but no later than March 1 of each year, subject to the approval of the Board. Voting shares attributable to Irvine shall be divided equally between the Irvine Directors.

#### 3.9.4 Special Voting.

3.9.4.1 Two-Thirds Supermajority Votes. An affirmative vote of two-thirds of the Directors of the entire Board shall be required to take any action on the following (i) issuing or repayment of bonds loans or other forms of debt; (ii) adding or removing Parties on or after January 1, 2021; (iii) amending or terminating this Agreement or adopting or amending the bylaws of the Authority; and (iv) terminating the CCA Program.

3.9.4.2 Three-Fourths Supermajority Votes. An affirmative vote of three-fourths of the Directors of the Board shall be required to initiate any action for eminent domain and no eminent domain action shall be approved within the jurisdiction of a Party without the affirmative vote of such Party's Director (or both Irvine Directors, if applicable, in the case of eminent domain action within the City of Irvine).

3.9.4.3 Advance Notice of Special Voting. At least thirty (30) days advance written notice to the Parties shall be provided for all special voting items under subsection 3.9.4.1 and/or subsection 3.9.4.2. Such notice shall include a copy of all substantive documents necessary to meaningfully deliberate and consider the proposed vote (e.g., any proposed amendment to this Agreement or the bylaws of the Authority). The Authority shall also provide prompt written notice to all Parties of the action taken, which shall include any resolution, ordinance, rule, policy, agreement, filing or other operative document (if any) adopted or approved by the Board.

#### 3.10 Officers.

3.10.1 Chair and Vice Chair. The Directors shall select from among themselves a Chair and a Vice-Chair. The Chair shall be the presiding officer of all Board meetings. The Vice-Chair shall serve in the absence of the Chair. The term of office of the Chair and 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: (i) 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.

3.10.2 Secretary. The Secretary shall be responsible for keeping the minutes of all meetings of the Board and all other official records of the Authority.

3.10.3 Treasurer/Auditor. In accordance with California Government Code § 6505.5, the Board shall appoint a qualified person to act as the Treasurer and a qualified person to act as the Auditor, neither of whom need be members of the Board. The Treasurer

and the Auditor shall possess the powers of, and shall perform those functions required of them by California Government Code §§ 6505, 6505.5, and 6505.6, and by all other applicable laws and regulations and amendments thereto.

3.11 Meetings. The Board shall provide for its regular meetings, the date, hour, and place of which shall be fixed by resolution of the Board. Regular, adjourned, and special meetings shall be called and conducted in accordance with the provisions of the Ralph M. Brown Act, California Government Code § 54950 *et seq.*

3.12 Chief Executive Officer. The Board shall appoint a Chief Executive Officer. The Chief Executive Officer shall be the chief administrative officer of the Authority, and shall be Secretary of the Board. The powers and duties of the Chief Executive Officer shall be those delegated and/or assigned to the Chief Executive Officer by duly adopted action of the Board.

3.13 Additional Officers and Employees. The Board shall have the power to authorize such additional officers and assistants as may be necessary and appropriate, including retaining one or more administrative service providers for planning, implementing, and administering the CCA Program. Such officers and employees may also be, but are not required to be, officers and employees of the Parties.

3.14 Bonding Requirement. The officers or persons who have charge of, handle, or have access to any property of the Authority shall be the members of the Board, the Treasurer, the Executive Director, and any such officers or persons to be designated or empowered by the Board. Each such officer or person shall be required to file an official bond with the Authority in an amount which shall be established by the Board. Should the existing bond or bonds of any such officer be extended to cover the obligations provided herein, said bond shall be the official bond required herein. The premiums on any such bond attributable to the coverage required herein shall be the appropriate expenses of the Authority.

3.15 Audit. The records and accounts of the Authority shall be audited annually by an independent certified public accountant with the final audit completed within six months of the fiscal year end, and copies of such audit report shall be filed with the State Controller, and each Party no later than fifteen (15) days after receipt of said audit by the Board.

3.16 Privileges and Immunities from Liability. All of the privileges and immunities from liability, exemption from laws, ordinances and rules, all pension, relief, disability, workers' compensation, and other benefits which apply to the activities of officers, agents, or employees of a public agency when performing their respective functions shall apply to the officers, agents, or employees of the Authority to the same degree and extent while engaged in the performance of any of the functions and other duties of such officers, agents, or employees under this Agreement. None of the officers, agents, or employees directly employed by the Authority shall be deemed, by reason of such employment to be employed by the Parties (or any of them).

## SECTION 4: ADDITIONAL PARTIES AND IMPLEMENTATION OF CCA PROGRAM

4.1 Additional Parties. An incorporated city or county, or other public agency as authorized by California Public Utilities Code § 331.1, may become a member of the Authority and a Party to this Agreement upon satisfaction of the following:

4.1.1 Adoption of a resolution by the governing body of the proposed additional party approving the Agreement, and requesting participation and an intent to join the Authority;

4.1.2 Adoption by the Board of a resolution authorizing participation of the proposed additional party;

4.1.3 Satisfaction of any additional conditions as established by the Board or applicable laws or regulations; and

4.1.4 Execution of the Agreement by the proposed additional party.

4.2 Continuing Participation. The Parties acknowledge that participation in the CCA Program may change by the addition or withdrawal or termination of a Party. The Parties agree to participate in good faith with additional members as may later be added. The Parties also agree that the withdrawal or termination of a Party shall not affect the enforceability of this Agreement as to the remaining Parties, or the remaining Parties' continuing obligations under this Agreement.

4.3 Implementation of CCA Program. The Authority shall cause to be prepared an implementation plan meeting the requirements of California Public Utilities Code § 366.2 ("**Implementation Plan**") and any applicable regulations of the California Public Utilities Commission ("**CPUC**"). The Board shall approve the Implementation Plan prior to it being filed with the CPUC. The Authority, acting by and through the Board, shall take all such steps as are necessary and appropriate to implement the Implementation Plan and the CCA Program in a manner consistent with this Agreement.

4.4 Power Supply. The Board will establish power supply options for the Authority. The Authority's power supply options will include, but not be limited to, renewable and GHG-free base product that is equivalent to the minimum required by law. Each Party may select its power supply base product for the ratepayers in its jurisdiction. Each Party shall also have the flexibility to achieve its climate goals without impeding any other Party from doing the same.

4.4 Authority Documents. The Parties acknowledge and agree that the operations of the Authority will be implemented through various program documents and regulatory filings duly adopted by the Board, including, but not limited to, bylaws, an annual budget, and plans and policies related to the CCA Program. The Parties agree to abide by and comply with the terms and conditions of all such Authority documents that may be approved or adopted by the Board.

4.5 Termination of CCA Program. Nothing contained in this Agreement shall be construed to limit the discretion of the Authority to terminate the implementation or operation of

the CCA Program at any time, so long as such termination is in accordance with any applicable requirements of state law and the voting procedures specified in subsection 3.9.4.1, above.

## **SECTION 5: FINANCIAL PROVISIONS**

5.1 Fiscal Year. The Authority's fiscal year shall be twelve (12) months commencing July 1 of each year and ending June 30 of the succeeding year.

5.2 Treasurer. The Treasurer for the Authority shall be the depository for the Authority. The Treasurer of the Authority shall have custody of all funds and shall provide for strict accountability thereof in accordance with California Government Code § 6505.5 and other applicable laws. The Treasurer shall perform all of the duties required in California Government Code § 6505 *et seq.* and all other such duties as may be prescribed by the Board.

5.3 Depository & Accounting. All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with the funds of any Party or any other person or entity. Disbursement of such funds during the term of this Agreement shall be accounted for in accordance with generally accepted accounting principles applicable to governmental entities and pursuant to California Government Code § 6505 *et seq.* and other applicable laws. There shall be a strict accountability of all funds. All revenues and expenditures shall be reported regularly to the Board. The books and records of the Authority shall be promptly open to inspection by the Parties at all reasonable times.

5.4 Budget. The Board shall establish the budget for the Authority, and may from time to time amend the budget to incorporate additional income and disbursements that might become available to the Authority for its purposes during a fiscal year.

5.5 City of Irvine Initial Funding of Authority. The Authority shall, concurrent with the execution of this Agreement, enter into an agreement that covers repayment to the City of Irvine of (i) funding and collateral provided by the City of Irvine to the Authority to facilitate start-up and launch costs for the Authority and the CCA Program, and (ii) costs incurred by the City (including staff, consultant, and legal expenses, and associated allocated overhead and administrative expenses) in connection with the study and analysis of the CCA, the formation of the Authority, and the creation of the Implementation Plan (the "**Capital Loan Agreement**" or the "**Capital Loan**"). The Capital Loan shall be repaid from customer charges for electrical services to the extent permitted by law when the CCA Program becomes operational. The form of the Capital Loan Agreement is attached hereto as Exhibit D. The Authority shall enter into the Capital Loan Agreement so long as its final form is substantially consistent with the form attached as Exhibit D.

5.6 No Requirement for Contributions or Payments. Except as otherwise specified herein, the Parties are not required under this Agreement to make any financial contributions or payments to the Authority, and the Authority shall have no right to require such a contribution or payment.

5.6.1 Notwithstanding subsection 5.6, the Board may adopt a membership fee to be paid by Additional Parties upon entering into the Agreement, which

membership fee shall be established (if at all) by the Board and may cover a reasonable estimate of the transactional and other costs incurred by the Authority in processing the addition of the Additional Party to the Authority.

5.6.2 Notwithstanding subsection 5.6, the Authority and a Party may mutually and voluntarily enter into an agreement to provide the following: (i) contributions of public funds for the purposes set forth in this Agreement; (ii) advances of public funds for the purposes set forth in this Agreement, such advances to be repaid as provided by such written agreement; or (iii) its personnel, equipment or property.

5.6.3 For the avoidance of doubt, nothing in this Agreement requires, nor shall the Authority for any reason ever require, that any Party adopt any local tax, assessment, fee or charge for the benefit of the Authority.

5.7 Obligations of the Authority. Unless otherwise agreed by the Parties, the debts, liabilities, and obligations of the agency shall not be the debts, liabilities, and obligations, either jointly or severally, of the members of the agency. A Party may, in its sole discretion, agree to assume one or more of the debts, liabilities, and obligations of the Authority if, and only if, such Party, with the approval of its governing body, agrees in writing to assume any such debts, liabilities, or obligation of the Authority.

## **SECTION 6: WITHDRAWAL AND TERMINATION**

### 6.1 Right to Withdraw.

6.1.1 Right to Withdraw Prior to March 1, 2021. Except for the City of Irvine, a Party may withdraw from the Authority for any reason and without liability or cost prior to March 1, 2021 upon providing the Authority fifteen (15) days advance written notice.

6.1.2 Right to Withdraw After March 1, 2021. Except for the withdrawal provided for in Section 6.1.1, a Party may withdraw its membership in the Authority, effective as of the beginning of the Authority's fiscal year, by giving no less than one hundred eighty (180) days advance written notice of its election to do so, which notice shall be given to the Authority and each Party. Withdrawal of a Party shall require an affirmative vote of the Party's governing board. A Party that withdraws from the Authority pursuant to this subsection may be subject to certain continuing liabilities as described in this Agreement. The withdrawing Party and the Authority shall execute and deliver all further instruments and documents, and take any further actions as may be reasonably necessary to effectuate the orderly withdrawal of such Party.

6.2 Involuntary Termination. This Agreement may be terminated with respect to a Party for material non-compliance with provisions of this Agreement upon a two-thirds vote of the entire Board (excluding the vote of the Party subject to possible termination) taken in accordance with subsection 3.9.4.1. Prior to any vote to terminate this Agreement with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be delivered

to the Party whose termination is proposed at least thirty (30) days prior to the regular Board meeting at which such matter shall first be discussed as an agenda item. The written notice of proposed termination shall specify the particular provisions of this Agreement that the Party has allegedly violated with supporting documentation. The Party subject to possible termination shall have the opportunity at the next regular Board meeting following the expiration of the thirty-day (30) day notice period to respond to any reasons and allegations that may be cited as a basis for termination. The Party's response shall be evaluated at a public meeting prior to a vote regarding termination. A Party that has had its membership in the Authority terminated may be subject to certain continuing liabilities, as described in subsection 6.3. If the Board votes to terminate a Party's membership in the Authority, the effective date of the termination shall be scheduled by the Board, in its reasonable discretion, to ensure adequate time for the transition of the terminated Party's CCA Program customers to another electricity provider. The Parties expressly intend, agree and acknowledge that a Board action to terminate a Party's membership in the Authority shall be upheld so long as it is not arbitrary and capricious, and is supported by substantial evidence.

6.3 Continuing Liability; Refund. Upon a withdrawal of a Party under subsection 6.1.2 or involuntary termination of a Party under subsection 6.2, the Party shall be responsible for any claims, demands, damages, or liabilities attributable to the Party through the effective date of its withdrawal or involuntary termination. Such Party also shall be responsible liable to the Authority for (a) any damages, losses, or costs incurred by the Authority which result directly from the Party's withdrawal or termination, including, but not limited to, costs arising from the resale of capacity, electricity, or any attribute thereof no longer needed to serve such Party's load, and removal of customers from the CCA Program resulting from the withdrawal or termination of the Party; and (b) any costs or obligations associated with the Party's participation in any program in accordance with the program's terms, provided such costs or obligations were incurred prior to the withdrawal of the Party. Except as otherwise specified, such Party shall not be responsible for any claims, demands, damages, or liabilities commencing or arising after the effective date of the Party's withdrawal or involuntary termination. From and after the date a Party provides notice of its withdrawal or is terminated, the Authority shall reasonably and in good faith seek to mitigate any costs and obligations to be incurred by the withdrawing or terminated Party under this subsection through measures reasonable under the circumstances; provided, however, that this obligation to mitigate does not impose any obligation on the Authority to transfer any cost or obligation directly attributable to the membership and withdrawal or termination of the withdrawing or terminated Party to the ratepayers of the remaining Parties. Further the liability of the withdrawing or terminated Party shall be based on actual costs or damages incurred by the Authority and shall not include any penalties or punitive charges imposed by the Authority. The Authority may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority, to cover the Party's liability for the costs described above. The withdrawing or terminated Party agrees to pay any such deposit determined by the Authority in consultation with a third party audit firm. Any amount of the withdrawing or terminated Party's funds held on deposit with the Authority above that which is required to pay any liabilities or obligations shall be returned to that Party. In the implementation of this subsection 6.3, the Parties intend, to the maximum extent possible, without compromising the viability of ongoing Authority operations, that any claims, demands, damages, or liabilities covered hereunder, be funded from the rates paid by CCA Program customers located within the

service territory of the withdrawing Party, and not from the general fund of the withdrawing Party itself. The liability of a withdrawing Party under this subsection shall be only to the Authority and not to any other Party.

6.4 Termination of Agreement. This Agreement may be terminated by vote of the Board in accordance with subsection 3.9.4.1, or by mutual agreement of all the Parties approved by majority votes of their respective governing bodies. provided, however, that this subsection shall not be construed as limiting the rights of a Party to withdraw in accordance with Section 6.

6.5 Disposition of Authority Assets Upon Termination of Agreement. Upon termination of this Agreement, any surplus money or assets in possession of the Authority for use under this Agreement, after payment of all liabilities, costs, expenses, and charges incurred by the Authority, shall be returned to the then-existing Parties in proportion to the contributions made by each.

## **SECTION 7: MISCELLANEOUS PROVISIONS**

7.1 Dispute Resolution. The Parties and Authority shall make efforts to settle all disputes arising out of or in connection with this Agreement. Before exercising any remedy provided by law, a Party or Parties and the Authority shall engage in nonbinding mediation in the manner agreed to by the Party or Parties and the Authority. In the event that nonbinding mediation does not resolve a dispute within one hundred twenty (120) days after the demand for mediation is made, any Party or the Authority may pursue any all remedies provided by law.

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

7.3 Indemnification. The Authority shall acquire such insurance coverage as the Board deems necessary to protect the interests of the Authority, the Parties, and the Authority's ratepayers. The Authority shall indemnify, defend, and hold harmless the Parties and each of their respective board members or council members, officers, agents, and employees, from any and all claims, losses, damages, costs, injuries, and liabilities of every kind to the extent arising directly or indirectly from the conduct, activities, operations, acts, and omissions of the Authority under this Agreement.

7.4 Assignment. The rights and duties of a Party may not be assigned or delegated without the advance written consent of all other Parties. Any attempt to assign or delegate such rights or duties without express written consent of all other Parties shall be null and void. This Agreement shall inure to the benefit of, and shall be binding upon, the successors and assigns of the Parties. This subsection does not prohibit a Party from entering into an independent agreement



with another entity regarding the financing of that Party's contributions to the Authority (if any), or the disposition of proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the Parties under this Agreement.

7.5 Severability. If any part of this Agreement is held, determined, or adjudicated to be illegal, void, or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

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

7.7 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

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

[Signature to Follow on Next Page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as evidenced by the signatures below

**MEMBER AGENCY:**

**CITY OF IRVINE**

By: Marianna Marysheva  
Name: Marianna Marysheva  
Title: Interim City Manager  
Dated: 11/20/2020, 2020

Approved as to Form:

Jeffrey Melching  
City Attorney

Approved as to Form:

Ryan Baron  
Special Counsel

**CITY OF FULLERTON**

By: \_\_\_\_\_  
Name:  
Title:  
Dated: \_\_\_\_\_, 2020

Approved as to Form:

\_\_\_\_\_  
City Attorney

**CITY OF BUENA PARK**

By: Aaron France  
Name: Aaron France  
Title: Interim City Manager  
Dated: December 15, 2020

Approved as to Form:

Aaron France  
City Attorney

**ATTEST:**

Adria M. Jimenez, MMC  
ADRIA M. JIMENEZ, MMC  
CITY CLERK



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as evidenced by the signatures below

**MEMBER AGENCY:**

**CITY OF IRVINE**

By: \_\_\_\_\_  
Name:  
Title:  
Dated: \_\_\_\_\_, 2020


Approved as to Form:

\_\_\_\_\_  
City Attorney

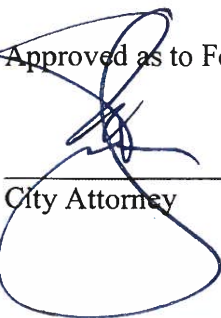
Approved as to Form:

\_\_\_\_\_  
Special Counsel

**CITY OF FULLERTON**

By:   
Name: Kenneth A. Dome  
Title: City Manager  
Dated: 11-20, 2020

Approved as to Form:

  
\_\_\_\_\_  
City Attorney

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as evidenced by the signatures below

**MEMBER AGENCY:**

**CITY OF IRVINE**

By: \_\_\_\_\_  
Name:  
Title:  
Dated: \_\_\_\_\_, 2020

Approved as to Form:

\_\_\_\_\_  
City Attorney

Approved as to Form:

\_\_\_\_\_  
Special Counsel

**CITY OF FULLERTON**

By: \_\_\_\_\_  
Name:  
Title:  
Dated: \_\_\_\_\_, 2020

Approved as to Form:

\_\_\_\_\_  
City Attorney

**CITY OF HUNTINGTON BEACH**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk *12/11/2020*

REVIEWED AND APPROVED

\_\_\_\_\_  
City Manager

Approved as to Form

\_\_\_\_\_  
City Attorney *mv*


IN WITNESS WHEREOF, the parties hereto have executed this Agreement as evidenced by the signatures below

**MEMBER AGENCY:**

**CITY OF IRVINE**

By: \_\_\_\_\_  
Name:  
Title:  
Dated: \_\_\_\_\_, 2020

**CITY OF LAKE FOREST**

By:  \_\_\_\_\_  
Name: Neeki Moatazedi  
Title: Mayor  
Dated: December 15, 2020

**EXHIBIT A  
LIST OF PARTIES**

***Founding Members:***

City of Irvine  
1 Civic Center Plaza  
Irvine, CA 92606

City of Fullerton  
303 W. Commonwealth Ave.  
Fullerton, CA 92832

City of Huntington Beach  
2000 Main Street  
Huntington Beach, CA 92648

City of Buena Park  
6650 Beach Blvd.  
Buena Park, CA 90622

City of Lake Forest  
25550 Commercentre Dr.  
Suite 100  
Lake Forest, CA 92630

**EXHIBIT B**  
**ANNUAL ENERGY USAGE BY JURISDICTION**

	<b>2019 Annual Load GWh<sup>1</sup></b>
City of Buena Park <sup>2</sup>	450
City of Fullerton	676
City of Huntington Beach	1,046
City of Irvine	1,937
City of Lake Forest	459
<b>Total</b>	<b>4,569</b>

1. Annual energy usage is preliminary data and has not been validated by Southern California Edison (SCE) at the time of execution of the Agreement. This Exhibit will be updated without requiring an amendment of the Agreement upon SCE validation of the data.
2. City's 2019 annual load is an estimated value that may change pending preliminary and validated data from SCE.

**EXHIBIT C  
PARTY VOTING SHARES**

	<b>Estimated Voting Share<sup>1</sup></b>
City of Buena Park	9.8%
City of Fullerton	14.8%
City of Huntington Beach	22.9%
City of Irvine	42.4%
City of Lake Forest	10.0%
<b>Total</b>	<b>100.0%</b>

1. Estimated Voting Share is based on Exhibit B (Annual Energy Usage by Jurisdiction). Annual energy usage is preliminary data and has not been validated by Southern California Edison (SCE) at the time of execution of the Agreement. This Exhibit will be updated without requiring an amendment of the Agreement upon SCE validation of the data.



**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 4.2**

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To: Orange County Power Authority Board of Directors

From: Brian Probolsky, Chief Executive Officer  
Ashley Garcia, Management Partners

Subject: ADOPT PERSONNEL POLICIES MANUAL AND AUTHORIZE ORANGE COUNTY  
POWER AUTHORITY EMPLOYEE BENEFITS PROGRAM

Date: December 21, 2021

---

**RECOMMENDED ACTION**

1. Adopt Personnel Policies Manual.
2. Authorize OCPA Employee Benefits Program.

**BACKGROUND**

*Personnel Policies*

As Orange County Power Authority (OCPA) continues to hire employees, it is necessary to create a set of comprehensive personnel policies for the organization to establish clear expectations and guidelines for staff. With the assistance of Management Partners, a local government management consulting firm, the completed draft personnel policy manual document is attached for review and adoption. The content of the policy document incorporates sample language from other Community Choice Aggregation (CCA) employee handbooks (Silicon Valley Clean Energy, Central Coast Community Energy, East Bay Community Energy) and best practice documents obtained from Liebert Cassidy Whitmore and the Society for Human Resources Management (SHRM). The draft manual has been reviewed by OCPA labor and employment counsel who has indicated it complies with federal and state labor law.

OCPA will notify employees if and when eligibility for Family Medical Leave Act (FMLA) is established in the future. At the time of adoption, OCPA will not meet this provision. The FMLA Eligibility section contained in the policy document states, “for FMLA leave eligibility, OCPA must directly employ at least 50 full or part-time employees within a 75-mile radius for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year.”

*Employee Benefits*

OCPA continues to recruit for staff positions. Establishing a competitive employee benefits program is critical to OCPA’s efforts to attract and retain talented staff. We engaged Management Partners to assist our staff in conducting an employee benefits analysis of six comparable CCA agencies. A proposed employee benefit program has been prepared for the Board’s review and discussion. Approval of the proposed benefits program will also allow OCPA to establish health insurance plans for 2022 enrollment.

**ANALYSIS AND DISCUSSION**



OCPA's proposed benefit program consists of a retirement plan, group health insurance plans for medical, dental, and vision coverage, cash payment in lieu of health insurance, flexible spending accounts, paid time off (PTO), holiday pay and holiday closure, life insurance, short-term and long-term disability insurance, wellness reimbursement, executive leave, automobile and technology allowances, PTO cash-out option and employee assistance program. In addition, there are mandated benefits programs such as workers' compensation, Consolidated Omnibus Budget Reconciliation Act (COBRA) and unemployment insurance. Eligibility to participate in OCPA's benefits program is determined by employee classification and length of service with OCPA.

Attachment 2 contains the proposed Orange County Power Authority employee benefit program developed as a result of the analysis of the benchmarking data. The approach used to set OCPA's proposed benefit program is to align OCPA's employer contributions with the amounts provided by comparison agencies in each benefit category.

Once authorized, the benefit program will be used in recruitment notices and advertisements to help attract highly qualified candidates to fill newly established positions. The Chief Executive Officer has obtained estimates for group health insurance and is in the negotiation process with employee benefits providers to bring contracts forward as necessary for Board of Directors approval.

## **FISCAL IMPACT**

The projected annual budgetary staffing costs for FY 2021-22 is \$1.53 million or 3.8% of revenue vs. approved annual budgetary staffing costs of \$1.26 million or 3.6% of revenue. The overall impact is \$270k or 0.2 percentage points of revenue.

## **ATTACHMENT**

1. Personnel Policies Manual
2. OCPA Employee Benefits Program



## Draft Personnel Policies

Prepared by Management Partners

December 21, 2021





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## Welcome to the Orange County Power Authority

Dear Orange County Power Authority employee:

Congratulations on your employment with the Orange County Power Authority (OC Power)! We at OC Power share great pride and passion in the work we do, and we're glad you're joining us to help advance our mission for the benefit of our ratepayers, our environment, and our communities.

As an employee of OC Power, you are our most valuable resource. We are committed to fostering an open, cooperative and dynamic environment. It is our hope that you find OC Power a rewarding place to work.

Information regarding the procedures, practices, policies and benefits of OC Power is contained within this policy manual. We encourage you to read this manual carefully, and review it from time to time.

The Orange County Power Authority's policies may change at any time, and employees are expected to comply with the most current versions. You will be informed of any changes as they occur. If you would like further information or have questions about any of the information outlined in this manual, please feel free to reach out to me or your supervisor.

On behalf of the OC Power Board of Directors and staff, I extend a warm welcome as you join our team!

Sincerely,

Brian Probolsky  
Chief Executive Officer



## 100 GENERAL INFORMATION

### 101 Effect and Applicability of Personnel Policies

These policies establish specific classification, compensation, and other procedures governing the Orange County Power Authority's ("OCPA") employees. This policy defines and describes the rights, privileges, benefits, and prohibitions which accrue to and are placed upon OCPA employees covered under this policy.

These Personnel Policies ("Policies") do not create any contract right, or any express or implied contract of employment. OCPA retains the full discretion to modify these Policies at any time in accordance with law.

Although employees should refer to this document for any questions regarding employment, it is not possible to anticipate every situation or question that might arise. This document is not an employee's only source of information on employment-related issues. Employees may have questions that the document does not answer. In those situations, employees should talk with a representative of Human Resources.

#### ***101.1 Applicability and Future Revisions: Authority's Discretion to Modify These Policies***

Circumstances will require that the policies, rules, and benefits described in this document change from time to time. These policies may be reviewed and/or amended as necessary. OCPA will attempt to keep employees advised of any changes made to this document.

Nothing contained in this policy shall be deemed to prevent the Board from entering into written agreement(s) concerning the employment or separation from employment of any employee with whom the power of appointment or removal or the approval thereof is vested in the Board of Directors. In the event a conflict arises between any provision in such written employment or separation agreement approved by the Board of Directors and any provision of this policy, the said agreement shall prevail; otherwise, this policy shall be deemed applicable.

#### ***101.2 Employee Acceptance of Policies and Revisions to Policies***

As a condition of employment, OCPA requires that each employee read and, if necessary, request clarification regarding these Policies. Each employee must sign a statement of receipt acknowledging that: a) they have received a copy, or have been provided access to the Policies; and b) they understand that they are responsible for reading and becoming familiar with the contents of the Policies and any subsequent revisions to the Policies.



## **102 Delegation of Authority**

### ***102.1 Delegation of Appointment and Personnel Action Authority to Chief Executive Officer***

The Board delegates to the Chief Executive Officer the authority to authorize employment, establish job responsibilities, and perform other personnel actions as to all subordinate employees in accordance with all federal and state laws and regulations and these Policies. The Chief Executive Officer may delegate responsibility to appropriate staff members to perform personnel actions in accordance with this section.

## **103 Classification of Employees**

Creation or deletion of a classification(s) or modifications to the salary schedule shall require Board approval.

### ***103.1 At-Will Working Relationship***

All employment with Orange County Power Authority is “at-will.” “At-will” means that either OCPA or the employee may terminate the employment relationship at any time, with or without cause, and with or without notice. The Board of Directors shall have the sole authority to enter into representations or agreements that are inconsistent with the at-will status of any employees, including any agreement providing for employment for a specified period of time. Any such representation or agreement must be in writing and signed by a designee of the Board of Directors and the employee.

### ***103.2 Exempt Employees***

Upon hire, an employee’s Federal Fair Labor Standards Act (FLSA) status will be designated as either “exempt” or “non-exempt.” Exempt employees are those employees whose duties and responsibilities allow them to be “exempt” from overtime provisions as provided by the FLSA and any applicable state laws.

Exempt status applies to certain administrative, professional, and executive staff. Exempt employees qualify for exemption from overtime regulations under state and federal law and their salaries already consider that they may work long hours.

### ***103.3 Non-Exempt Employees***

“Non-Exempt” status applies to all other regular employees who primarily perform work that is subject to the overtime provisions of the (FLSA). Employees working in non-exempt positions are compensated for the actual amount of time spent on their job. Non-exempt California employees are eligible for overtime compensation after eight (8) hours worked in one (1) day or forty (40) hours worked in one (1) week, at one and one-half (1½) times their regular pay. (See section 602.4.)

No non-exempt employee shall receive overtime pay for the time spent outside normal work hours in attending meetings of any kind unless the employee’s manager specifically requires the employee’s attendance and the employee is otherwise eligible for overtime compensation.

### ***103.4 Full-Time and Part-Time Employees***

A full-time employee is one whose position is budgeted to work at least forty (40) hours per week. Full-time employees receive all benefits provided in these Policies. A part-time employee is one whose position is budgeted to work less than forty (40) hours per week. Part-time



employees may have different rights to leave and other benefits under the law or these Policies, depending on the number of hours they work.

**103.5 Temporary Employees**

Temporary employees are hired with the understanding that their employment will not continue beyond a stated date or beyond completion of a specified project or projects. Temporary employees will generally not be employed for more than one thousand (1,000) hours. Temporary employees are not eligible for benefits covered in this document, other than those required by law.

**103.6 Interns**

Interns are employees who are students gaining supervised practical experience in a professional field. Interns may be paid or unpaid but are not eligible for any benefits listed in this document other than those required by law.



## **200 EQUAL EMPLOYMENT OPPORTUNITY**

### **201 Equal Employment Opportunity Policy**

OCPA affords equal employment opportunity for all qualified employees and applicants as to all terms of employment, including compensation, hiring, training, promotion, transfer, discipline and termination. OCPA does not unlawfully discriminate on the basis of race (including, but not limited to, hair texture and protective hairstyles such as braids, locks, and twists), color, religion, religious creed (including religious dress and religious grooming practices), sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity (including transgender identity, gender expression (including transgender expression), because an individual has transitioned (to live as the gender with which they identify), is transitioning, or is perceived to be transitioning), sex stereotyping, national origin, ancestry, citizenship, age (40 years and over), mental disability and physical disability (including HIV and AIDS), legally protected medical condition or information (including genetic information), protected medical leaves (requesting or approved), military and/or veteran status, service, or obligation, reserve status, national guard status, marital status, domestic partner status, sexual orientation, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or any other basis protected by local, state or federal laws.

Any such discrimination is unlawful and all persons involved in the operations of OCPA are prohibited from engaging in this type of conduct. Employees or applicants who believe they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately by using the complaint procedures provided in these Policies, or by contacting the U.S. Equal Employment Opportunity Commission, or the California Department of Fair Employment and Housing. Contact information for both agencies can be found on the internet.

### **202 Policy Against Discrimination, Harassment and Retaliation; Complaint Procedure**

#### ***202.1 Purpose***

OCPA has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation in the workplace. OCPA has zero tolerance for any conduct that violates this Policy.

Conduct need not arise to the level of a violation of state or federal law to violate this Policy. Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. This Policy establishes a complaint procedure for investigating and resolving internal complaints of discrimination, harassment and retaliation. OCPA encourages all covered individuals to report any conduct they believe violates this Policy as soon as possible. Any retaliation against an employee because they filed or supported a complaint or because they participated in the complaint resolution process is prohibited. Individuals found to have retaliated in violation of this Policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

#### ***202.2 Covered Individuals and Scope of Policy***

This Policy is intended to protect all employees, regardless of rank or title, from bullying and unlawful harassment or discrimination. This Policy expressly includes and is intended to capture conduct directed by elected officials to OCPA employees. This Policy applies to all terms and



conditions of employment, including, but not limited to, selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

### **202.3 Definitions**

#### *202.3.1 Protected Classification*

This Policy prohibits harassment, discrimination or retaliation because of an individual's protected classification as set forth in the EEOC Policy in section 201, above. This Policy prohibits discrimination, harassment or retaliation because of: (1) an individual's protected classification; (2) the perception that an individual has a protected classification; or (3) the individual associates with a person who has or is perceived to have a protected classification.

#### *202.3.2 Protected Activity*

This Policy prohibits discrimination, harassment, or retaliation because of an individual's protected activity. Protected activity includes: (1) making a request for an accommodation for a disability; (2) making a request for accommodation for religious beliefs; (3) making a complaint under this Policy; (4) opposing violations of this Policy; or (5) participating in an investigation under this Policy.

#### *202.3.3 Discrimination*

This Policy prohibits treating covered individuals differently and adversely because of the individual's protected classification, whether actual or perceived; because the individual associates with a person who is member of a protected classification, whether actual or perceived; or because the individual participates in a protected activity as defined in this Policy.

### **202.4 Harassment**

#### *202.4.1 Sexual Harassment*

Sexual harassment (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions, gender identity, gender expression, transgender status, those who are transitioning or have transitioned, sexual stereotypes, sexual orientation, and gender harassment) is defined as unwanted sexual advances, or visual, written, verbal or physical conduct of a sexual nature that creates an intimidating, offensive, or hostile working environment or that interferes with an employee's work performance. Such conduct constitutes harassment when:

- 1) submission to the conduct is made either an explicit or implicit condition of employment or promotion;
- 2) submission or rejection of the conduct is used as the basis for an employment decision; or
- 3) the unwelcomed comments or conduct based on sex unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Sexual harassment includes many forms of offensive behavior and includes gender-based harassment of a person of the same sex as the harasser. Furthermore, sexually harassing conduct need not be motivated by sexual desire. The following is a partial list of violations:

- Unwanted sexual advances, propositions or requests for sexual favors;
- Offering employment benefits in exchange for sexual favors;
- Making or threatening reprisals after a negative response to sexual advances;



- Visual conduct: leering, making sexual gestures, displaying of suggestive objects, posters, photographs, cartoons, or drawings;
- Verbal conduct: making or using derogatory comments, epithets, slurs, jokes, verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, foul or obscene language, conversation containing sexual comments;
- Written conduct: suggestive or obscene letters, emails, drawings, notes or invitations;
- Physical conduct: unwanted touching, assault, impeding or blocking movements, and violating someone's "personal space"; and
- Retaliation for reporting harassment or threatening to report harassment.

#### *202.4.2 Other Types of Harassment*

Harassment can take many forms beyond sexual harassment. Harassment on the basis of race (including, but not limited to, hair texture and protective hairstyles such as braids, locks, and twists), color, religion, religious creed (including religious dress and religious grooming practices), sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity (including transgender identity, gender expression (including transgender expression), because an individual has transitioned (to live as the gender with which they identify), is transitioning, or is perceived to be transitioning), sex stereotyping, national origin, ancestry, citizenship, age (40 years and over), mental disability and physical disability (including HIV and AIDS), legally protected medical condition or information (including genetic information), protected medical leaves (requesting or approved), military and/or veteran status, service, or obligation, reserve status, national guard status, marital status, domestic partner status, sexual orientation, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or any other basis protected by local, state or federal laws, is also prohibited and will not be tolerated by OCPA. Such harassment includes but is not limited to the following when based upon an employee's protected status as noted above:

- Verbal conduct such as making or using derogatory comments, epithets, slurs, jokes, or verbal abuse;
- Visual conduct such as gestures and displaying of objects, posters, photographs, cartoons, or drawings;
- Written conduct such as suggestive or obscene letters, emails, drawings, notes or invitations;
- Physical conduct such as assault, unwanted touching, or blocking normal movement, or violating someone's "personal space"; and
- Retaliation for reporting harassment or threatening to report harassment.

#### *202.4.1 Guidelines for Identifying Harassment*

Harassment includes any conduct that would be unwelcome or unwanted to an individual of the recipient's same protected classification. The following guidelines should be followed to determine if conduct is unwelcome or unwanted:

- (a) It is no defense that the recipient "appears" to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized or subjected to retaliation.





- (b) Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one has yet complained does not preclude someone from complaining if the conduct is repeated in the future.
- (c) Even visual, verbal, or physical conduct between two people who appear to welcome the conduct can constitute harassment of a third person who witnesses the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.
- (d) Conduct can constitute harassment even if the individual has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual would find it offensive (e.g., gifts, over-attention, endearing nicknames, hugs).

### **202.5 Retaliation**

Retaliation occurs when an employer takes adverse conduct against a covered individual because of the individual's protected activity as defined in this Policy. "Adverse conduct" may include but is not limited to: (1) disciplinary action; (2) counseling; (3) taking sides because an individual has reported harassment or discrimination; (4) spreading rumors about a complainant or about someone who supports or assists the complainant; (5) shunning or avoiding an individual who reports harassment or discrimination; or (6) making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

### **202.6 Complaint Procedure**

A covered individual who believes he or she has been subjected to discrimination, harassment or retaliation may make a complaint – orally or in writing – to any supervisor or manager, without regard to any chain of command. Any supervisory or management employee who receives a harassment complaint shall immediately notify the Chief Executive Officer. Upon receiving notification of a harassment complaint, the Chief Executive Officer will complete and/or delegate the following steps:

- (a) Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with: (1) the complainant; (2) the accused; and (3) other persons who have relevant knowledge concerning the allegations in the complaint.
- (b) Review the factual information gathered through the investigation to determine whether the alleged conduct violates the Policy, giving consideration to all factual information and the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incident(s) occurred.
- (c) Report a summary of the determination as to whether this Policy has been violated to appropriate persons. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.



- (d) If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
- (e) Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

If the Chief Executive Officer is accused of or a witness to the events at issue, then the Board of Directors will be responsible for initiating an investigation, delegating steps, and/or taking corrective action.

#### *202.6.1 Option to Report to Outside Administrative Agencies*

An individual has the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the Internet, in the government section of the telephone book or employees can check the posters that are located on OCPA bulletin boards for office locations and telephone numbers.

#### *202.6.2 Confidentiality*

OCPA will maintain confidentiality to the extent possible. Any supervisor or manager who is informed of a complaint of harassment, discrimination, and/or retaliation by an employee, or any other individual, must report said complaint to Chief Executive Officer immediately and must otherwise keep the matter confidential. The Chief Executive Officer must also keep the matter confidential and not disclose the matter to any person who does not have legitimate work-related reasons for knowing of the complaint. Any supervisor, manager who fails to comply with this paragraph will be subject to disciplinary action, up to and including termination of employment.

#### *202.6.3 Conclusion of Investigation*

At the conclusion of the timely investigation, if it is determined that prohibited harassment, discrimination, and/or retaliation has occurred, OCPA will take immediate and effective remedial action commensurate with the circumstances. Corrective action may include, for example: training, referral to counseling, or disciplinary action including, but not limited to, verbal or written warning, suspension, transfer, demotion, and termination of employment, depending on the circumstances. With regard to acts of harassment by clients or vendors, corrective action will be taken after consultation with the appropriate management personnel.

The employee who initiated the complaint will be notified when the investigation has been completed and will be informed of the general outcome of the investigation, i.e., whether the complaint has been substantiated or unsubstantiated. However, the employee is not entitled to know the corrective action, if any, imposed on the accused harasser as that information is protected by the accused harasser's right to privacy. Appropriate action will be taken to ensure the employee who has been found to have been harassed, discriminated, and/or retaliated against will not be harassed and/or retaliated against in the future, including but not limited to redistribution of this policy, training, transfer, etc.

#### *202.6.4 Responsibilities and Proactive Approach*

Each non-manager or non-supervisor is responsible for:

1. Treating all individuals in the workplace or on worksites with respect and consideration.
2. Modeling behavior that conforms to this Policy.



3. Participating in periodic training.
4. Cooperating with OCPA's investigations pursuant to this Policy by responding fully and truthfully to all questions posed during the investigation.
5. Taking no actions to influence any potential witness while the investigation is ongoing.
6. Reporting any act he or she believes in good faith constitutes harassment, discrimination or retaliation as defined in this Policy, to their immediate supervisor, or department head, or the Chief Executive Officer.

In addition to the responsibilities listed above, each manager and supervisor is responsible for:

1. Informing employees of this Policy.
2. Taking all steps necessary to prevent harassment, discrimination and, retaliation from occurring, including monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
3. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
4. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
5. Informing those who complain of harassment or discrimination of their option to contact the EEOC or DFEH regarding alleged Policy violations.
6. Assisting, advising, or consulting with employees and the Chief Executive Officer regarding this Policy.
7. Assisting in the investigation of complaints involving employee(s) in their departments and, when appropriate, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with these Policies, up to and including termination.
8. Implementing appropriate disciplinary and remedial actions.
9. Reporting potential violations of this Policy of which he or she becomes aware to the Chief Executive Officer, regardless of whether a complaint has been submitted.
10. Participating in periodic training and scheduling employees for training.

## **203 Reasonable Accommodation and Interactive Process**

### ***203.1 Reasonable Accommodation***

Absent undue hardship or direct threats to the health and safety of employee(s), OCPA provides employment-related reasonable accommodations to:

- (a) qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions;
- (b) employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider;
- (c) employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work; and
- (d) employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement.



## **203.2 Supporting Documentation or Certification**

### **203.2.1 Reasonable Medical Documentation of Disability**

If the disability or the need for reasonable accommodation is not obvious, OCPA may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, OCPA will: (1) explain the insufficiency; (2) allow the employee or applicant to supplement the documentation; and (3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided.

### **203.2.2 Medical Certification Indicating the Need for a Reasonable Accommodation or Transfer due to Pregnancy or Related Conditions**

If a pregnant employee, or an employee with a pregnancy-related condition, requests a reasonable accommodation or transfer due to pregnancy, OCPA will provide the employee with notice of the need for a medical certification within two business days after the employee's request for accommodation. A medical certification confirming the need for a reasonable accommodation, including transfer, is sufficient if it contains: (1) a description of the requested accommodation or transfer; (2) a statement describing the medical advisability of the accommodation or transfer due to pregnancy; and (3) the date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer.

### **203.2.3 Certification of Victim Status**

An employee who is a victim of domestic violence, sexual assault or stalking who requests an accommodation to provide for their safety while at work must provide both of the following:

- (a) A written statement signed by the employee or an individual acting on the employee's behalf, certifying that the accommodation is to address victim-safety concerns while at work; and
- (b) A certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking.

## **203.3 Fitness for Duty Examinations**

### **203.3.1 Applicants**

After OCPA extends a conditional offer of employment to an applicant, OCPA may require the applicant to submit to a fitness for duty examination that is job-related, necessary for efficient operations of OCPA, and required of all applicants for the job classification. OCPA will notify an applicant or employee who is required to pass a medical examination of their right to obtain a second opinion at their expense and that they may submit such second opinions to OCPA for consideration.

### **203.3.2 Current Employee**



An employee may be required to submit to a fitness for duty examination to determine if the employee has a disability and is able to perform the essential functions of their job when there is significant evidence that:

- (a) the employee's ability to perform one or more essential functions of their job has declined; or
- (b) could cause a reasonable person to question whether an employee is still capable of performing one or more of their essential job duties, or is still capable of performing those duties in a manner that does not harm themselves or others.

*203.3.3 Role of Health Care Provider*

OCPA may request the applicant's or employee's health care provider to conduct a fitness for duty exam on the applicant or employee, or may request an OCPA-selected health care provider to do so at OCPA's expense. OCPA will allow an employee paid time off to attend the exam. OCPA will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the job. The examination will be limited to determining whether the applicant or employee can perform the essential functions of their position and any work restrictions and/or functional limitations that apply to the applicant or employee. The health care provider will examine the employee and provide OCPA with non-confidential information regarding whether:

- (a) The applicant or employee has a disability within the meaning of the California Fair Employment and Housing Act;
- (b) The applicant or employee is fit to perform essential job functions;
- (c) Workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
- (d) There are any reasonable accommodations that would enable the employee to perform essential job functions; and
- (e) The employee's continued employment poses a threat to the health and safety of themselves or others.

Should the health care provider exceed the scope of OCPA's request and provide confidential health information, without valid consent of the applicant or employee, OCPA will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that OCPA has requested.

*203.3.4 Authorization for Use of Medical Information*

During the course of a fitness for duty examination, OCPA will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

*203.3.5 Medical Information from the Employee or Applicant*

If an employee or applicant submits medical information to OCPA from their own health care provider, OCPA will not forward that information to the health care provider who conducted the examination for OCPA, without the employee's or applicant's written authorization. Upon receipt



of the written authorization, OCPA will request an OCPA-paid health care provider to determine whether the information alters the original fitness for duty assessment.

### **203.4 Interactive Process**

#### *203.4.1 When to Initiate the Interactive Process*

OCPA will initiate the interactive process when:

- (a) An applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s);
- (b) OCPA otherwise becomes aware of the need for an accommodation through a third party (e.g., a doctor's note requesting an accommodation), or by observation of the employee's work;
- (c) OCPA becomes aware of the possible need for an accommodation because the employee with a disability has exhausted workers' compensation leave, Family and Medical Act leave, or other leave rights, but the employee and/or the employee's health care provider indicate that further accommodation is still necessary for recuperative leave or other accommodation;
- (d) An employee disabled by pregnancy, childbirth or related medical conditions requests a reasonable accommodation or transfer based on the advice of her health care provider;
- (e) An employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave;
- (f) An employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for their safety at work;
- (g) An employee requests an accommodation to address a conflict between religious belief, observance or practice and any employment requirement; or
- (h) An employer is aware of the need for a reasonable accommodation for an employee's or applicant's religious beliefs, observance or practices.

#### *203.4.2 Interactive Communication*

After the occurrence of any of the above-stated circumstances that trigger the need to conduct an interactive process meeting, OCPA will promptly arrange for a discussion or discussions, in person or via conference telephone call, with the applicant or employee and their designated representative (if any). The purpose of the interactive communications will be to discuss in good faith all feasible potential reasonable accommodations. All communications will be documented by OCPA in writing.

#### *203.4.3 Determination*

After the interactive process communications, OCPA will review the information received, and determine: whether all available information has been reviewed; whether all potential accommodations that the applicant or employee has suggested have been considered; whether additional discussions with the applicant or employee would be helpful; whether the applicant's or employee's preferences have been taken into account; if there is a reasonable accommodation that would enable the applicant or employee to perform essential job functions



without harming themselves or others; and if the accommodations would pose an undue hardship to OCPA, in its sole discretion. An applicant or employee will be informed of OCPA's determination in writing.

### **203.5 Access to Medical Information Regarding Fitness for Duty**

Medical records and information regarding fitness for duty, or the need for an accommodation, will be maintained separately from non-medical records and information. Medical records and information regarding fitness for duty and the need for accommodation will be accessible only by the Chief Executive Officer or their designee, OCPA's legal counsel, first aid and safety personnel in case of emergency, and supervisors who are responsible for identifying reasonable accommodations. Medical records and information contained therein may be released pursuant to state and federal law.

## **204 Whistleblower Protection**

### **204.1 Policy**

OCPA prohibits all of the following:

- (a) Taking any retaliatory adverse employment action against an employee because the employee has or is believed to have disclosed information to any government or law enforcement agency, including to OCPA, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation;
- (b) Preventing an employee from disclosing information to a government agency, including to OCPA, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation;
- (c) Retaliating against an employee for refusing to participate in any activity that would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation; and
- (d) Retaliating against an employee because the employee's family member has, or is perceived to have engaged in any of the protected activities listed in (a)-(c) above.

### **204.2 Policy Coverage**

This Policy governs and protects Authority officials, officers, employees, or applicants for employment.

### **204.3 Definitions**

(a) "**Protected activity**" includes any of the following:

- 1) Filing a complaint with a federal or state enforcement or administrative agency that discloses any information that the employee has reasonable cause to believe violates state or federal law or a violation or noncompliance with a local, state, or federal rule or regulation;
- 2) Participating in or cooperating in good faith with a local, federal or state enforcement agency that is conducting an investigation into alleged unlawful activity;
- 3) Testifying in good faith and with reasonable cause as a party, witness, or accused individual alleged unlawful activity;



- 4) Associating with another covered individual who is engaged in any of the protected activities enumerated here;
- 5) Making or filing in good faith and with reasonable cause an internal complaint with OCPA regarding alleged unlawful activity;
- 6) Providing informal notice to OCPA regarding alleged unlawful activity;
- 7) Calling a governmental agency's "Whistleblower hotline" in good faith;
- 8) Filing a written complaint under penalty of perjury that OCPA has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to public health or safety; and
- 9) Refusing to participate in any activity that the employee reasonably believes would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation.

**(b) "Adverse action"** may include, but is not limited to, any of the following:

- 1) Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of actual or potential protected activity;
- 2) Refusing to hire an individual because of actual or potential protected activity;
- 3) Denying promotion to an individual because of actual or potential protected activity;
- 4) Taking any form of disciplinary action because of actual or potential protected activity;
- 5) Altering work schedules or work assignments because of actual or potential protected activity;
- 6) Condoning hostility and criticism of co-workers and third parties because of actual or protected activity;
- 7) Spreading rumors about a person because of that person's actual or perceived protected activity; and
- 8) Shunning or unreasonably avoiding a person because of that person's actual or perceived protected activity.

#### **204.4 Complaint Procedure**

An applicant or employee, who feels they have been retaliated against in violation of this Policy should immediately report the conduct according to the complaint procedure in OCPA's Policy Against Discrimination, Harassment or Retaliation so that the complaint can be resolved fairly and quickly. Supervisors and managers have the same responsibilities as defined in the Policy Against Discrimination, Harassment or Retaliation.





## **300 CLASSIFICATION POLICIES**

### **301 Classification Plan**

#### ***301.1 Classification Plan***

The Chief Executive Officer, or their designee, shall ascertain and record the duties and responsibilities of all positions and, after consulting with the Board, shall recommend a classification plan ("plan") including job descriptions for such positions. The plan and any revisions thereof shall become effective upon approval of the Board.

Following the approval of the classification plan, the Chief Executive Officer shall allocate every position to one of the classifications established by the plan.

When a new position is created, such position may not be filled until the classification plan has been amended to provide for the new position.

Classification specifications are intended to be descriptive and explanatory of the kind of work performed by all employees in the classification.

A job class may contain one or more positions. Creation or deletion of classification(s) or modifications to the salary schedule shall require Board approval, and all classification specification changes must be reviewed by the supervisor of the position prior to approval. All employees having supervisory and/or managerial responsibilities shall have access to the current classification specifications for their own position, and any position they supervise or manage.

#### ***301.2 Reclassification***

The Chief Executive Officer, or their designee, may initiate a job audit to determine whether the duties of a position have changed to such an extent that they necessitate reclassification of the position from the existing classification to a more appropriate classification. Upon completion of the job audit, the Chief Executive Officer shall make a recommendation regarding reclassification to the Board.



## **400 RECRUITMENT, SELECTION, AND APPOINTMENT**

### **401 Recruitment, Selection and Appointment Policy**

The Chief Executive Officer, or their designee, is the only authorized employee to conduct recruitments and make job offers on behalf of OCPA. With the exception of OCPA Counsel, the Chief Executive Officer shall have OCPA to appoint, remove, promote and demote any employees of OCPA.

The Chief Executive Officer, or their designee, will consult with operating departments on the specifics of each recruitment, including but not limited to: the type of recruitment; content of the job announcement; desired qualifications; and the structure and content of the recruitment process.

The Chief Executive Officer shall advise the Board of any reorganization of offices, positions, departments or units under their direction as may be indicated in the interest of efficient, effective and economical conduct of OCPA's business, subject to the Board's budget authority.

#### **401.1 Job Announcement**

The Chief Executive Officer, or their designee, will prepare a job announcement to announce a proposed recruitment. The announcement may be posted on OCPA's website and other locations OCPA deems appropriate, depending upon whether the recruitment is open to the public or current employees only.

The announcement will include the title for the position, and brief description of the essential job duties of the position. It will also include the minimum qualifications, the last date that OCPA will accept applications, any pertinent information regarding selection and any medical or drug testing to be performed following a conditional job offer. OCPA may include any other information determined to be of value at its discretion.

#### **401.2 Application Forms**

Job applications shall require information describing an individual's training, experience, and other pertinent information as deemed necessary to assess qualifications for the job. Applicants may be required to provide supplementary information, including but not limited to: answers to job-related questions, resume, licenses, certifications, diplomas, letters of recommendation and references. All applications must be completed in full and signed, physically or electronically, by the person applying. The Chief Executive Officer or their designee will not process any application which is not fully completed and signed. Should an applicant be appointed to a position, the supplemental information shall become a part of the individual's permanent employment records.

#### **401.3 Disqualification of Applications**

The Chief Executive Officer or their designee may reject any application which is not properly completed or incomplete, received after the application deadline, or indicates that the applicant does not meet the minimum qualifications for the position. Whenever an application is rejected, notice of such rejection shall be mailed or emailed to the applicant.

##### **401.3.1 Criminal Conviction Check**



After OCPA makes a conditional offer of employment, the Chief Executive Officer, or their designee, may then request information about criminal convictions, except for misdemeanor marijuana-related convictions that are over two years old, or convictions that have been judicially sealed, eradicated, or expunged. Unless required by law, OCPA will not deny employment to any applicant solely because he or she has been convicted of a crime. OCPA may, however, consider the nature, date and circumstances of the offense, evidence of rehabilitation, as well as whether the offense is relevant to the duties of the position.

#### **401.4 Appointments**

The Chief Executive Officer, or their designee, will make all appointments except for those classifications that report to the governing body. The Chief Executive Officer, or designee, has discretion to decide in what manner a vacancy shall be filled. Vacancies may be filled by reinstatement, promotion, transfer, demotion, or appointment of temporary employees. The Board will make appointments for those classifications that report to it.

##### *401.4.1 Promotional Appointments*

An employee who receives a promotion to a higher-level classification shall be provided an increase to their current base rate of pay at the time of promotion.

##### *401.4.2 Grant-Funded and Limited-Term Positions*

Appointments to certain grant-funded and/or limited-term positions as designated by the Chief Executive Officer may be made by the Chief Executive Officer or their designee.



## **500 EMPLOYMENT OF RELATIVES OR SPOUSES/DOMESTIC PARTNERS**

### **501 Employment of Relatives, Spouses/Domestic Partners**

#### **501.1 Policy**

OCPA regulates the employment and placement of relatives, spouses/domestic partners so as to avoid conflicts of interest and to promote safety, security, supervision, and morale.

#### **501.2 Definitions**

“Relative” means child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership.

“Spouse” means one of two persons to a marriage, or two people who are registered domestic partners, as those terms are defined by California law.

“Supervisory relationship” means one in which one employee exercises the right or responsibility to control, direct, reward, or discipline another by virtue of the duties and responsibilities assigned to their Authority appointment.

#### **501.3 Employment of Relatives**

OCPA will not appoint, promote or transfer a person to a position within the same work division in which the person’s relative already holds a position, if any of the following would result in:

- (a) A direct or indirect supervisory relationship between the relatives;
- (b) The two employees having job duties which require performance of shared duties on the same or related work assignment;
- (c) Both employees having the same supervisor; or
- (d) A potential for creating an adverse impact on supervision, safety, security, morale or efficiency.

#### **501.4 Spouses/Domestic Partners**

OCPA will not appoint, promote, or transfer a person, to the same department, division, or facility in which the person’s spouse or registered domestic partner already holds a position, if such employment would result in any of the following:

- (a) One spouse/domestic partner being under the direct supervision of the other spouse or domestic partner; or
- (b) Potential conflicts of interest or hazards for married persons or those in domestic partnerships which are greater than for those who are not married or in domestic partnerships.

#### **501.5 Applicant Disclosures**

Each applicant is required to disclose the identity of any relative who is a current employee of



OCPA. An applicant's failure to disclose a relative who is an employee may result in rejection of the applicant or future disciplinary action against the applicant after employment, up to and including termination of employment for cause.

An applicant for a position who has a relative employed by OCPA may not be denied the right to file an application for employment and to complete background checks. If the applicant successfully completes all pre-hire conditions, then he or she may be employed in a department, division, or office in which a member of his or her family member is not employed, subject to this policy. Such employment may be denied if employment would potentially create a conflict of interest or would have a potentially adverse impact on morale, supervision, or safety, even where a direct reporting relationship is not involved. Applicants who are family members of members of the Board of Directors or the Chief Executive Officer are presumed to have a conflict of interest regardless of the position for which the applicant applied.

#### ***501.6 Marriage/Domestic Partnership After Employment***

**Transfer:** If two OCPA employees later become spouses/domestic partners, the Chief Executive Officer or their designee shall have discretion to transfer one of the employees to a similar position in another work division, if such a position is available that will cure the actual or potential conflict of interest. Although the wishes of the two employees will be considered, the Chief Executive Officer, or designee, retains sole discretion to determine which employee will be transferred based upon OCPA needs for supervision, safety, security or morale. Any such transfer that results in a salary reduction is not disciplinary or retaliatory.

**Separation:** In the event two employees of OCPA decide to marry, and there is no transfer that would resolve an actual or potential conflict of interest as determined by the Chief Executive Officer or their designee, as the case may be, in their sole discretion, then, the employees shall be given the opportunity to determine which of them shall voluntarily resign. If the employees are unable to or fail to choose which employee will resign, then the Chief Executive Officer or their designee will so choose and their decision will be final and binding.



## **600 COMPENSATION AND PAYROLL PRACTICES**

### **601 Work Schedules and Attendance**

#### **601.1 Work Schedules**

OCPA's normal business hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. Individual work schedules may vary or change depending upon assignment and operational needs, and approval of an employee's supervisor, the Chief Executive Officer or their designee.

#### **601.2 Meal and Rest Periods for Non-Exempt Employees**

California law requires that each non-exempt employee be given at least a 30-minute lunch break each day, and that this break begins within the first five hours of the workday. Accordingly, taking a duty-free lunch period of at least 30 minutes is mandatory. If an employee works more than 10 hours, they are entitled to a second, unpaid meal period of at least 30 minutes. Depending on the circumstances, the employee may be able to waive their second meal period if they took the first one.

Employees will be provided one 30-minute lunch each day, to be taken approximately in the middle of the workday. However, under special circumstances an employee may be granted permission by their supervisor to extend their lunch break. All meal periods must be recorded on employee time cards.

An employee is allowed one ten-minute rest period for every four hours of work or major portion thereof. While there is no set schedule for breaks, an employee is able to take restroom breaks and get refreshments as desired.

If, at any time, an employee is unable to take a lunch break and/or rest period because of workload, they should immediately inform their supervisor so that appropriate arrangements can be made.

Employees are expected to observe their assigned working hours and the time allowed for meal and rest periods.

### **602 Payment of Wages**

#### **602.1 Work Week**

The Fair Labor Standards Act (FLSA) requires designation of an employer's workweek. In accordance with this requirement, OCPA's workweek is designated as beginning at 12:00 a.m. on Sunday and ending at 11:59 p.m. on Saturday.

#### **602.2 Payroll Cycles**

Paydays are the 5th and the 20th of the month. OCPA offers a direct deposit option. There are 24 pay periods in a year. The workday (a 24-hour, consecutive period) begins at 12:00 a.m. and ends at 11:59 pm. If a regular payday falls on a weekend or holiday, employees will be paid on the first day of work prior to the regularly scheduled payday.

Employees must review their own paychecks for errors. Employees finding a mistake on a paycheck should report it to his or her supervisor as soon as possible. Employees



are prohibited from making changes to another employee's time card for any reason, and employees who engage in editing, modifying, or changing another employee's timecard may be subject to discipline up to and including the termination of employment.

### **602.3 Payroll deductions, wage attachments and garnishments**

OCPA makes certain deductions from every employee's paycheck. Among these are applicable federal, state, and local income taxes and Medicare taxes. Additionally, employer-paid term life insurance premiums in excess of \$50,000 coverage are considered a taxable benefit to the employee.

By law, OCPA is also required to honor legal attachments and garnishments of an employee's wages or salaries and will withhold the specified amount to satisfy the terms of the attachment.

### **602.4 Overtime provisions for Non-Exempt Employees**

Overtime is all hours a non-exempt employee actually works over 40 hours in their designated work week. Only actual hours worked will be counted toward the 40-hour threshold for purposes of calculating overtime pay; paid leave will not be counted. Non-exempt employees who are directed to work overtime must do so.

#### **602.4.1 Prior Approval Required for Overtime**

Non-exempt employees are not permitted to work overtime except as directed and authorized by their supervisor, or in case of emergency, as determined by OCPA. Working overtime without prior authorization or approval is grounds for discipline. In emergency situations that necessitate working overtime, the employee must notify a supervisor as soon as possible, and in no event later than the end of that day upon which the emergency occurred. If the supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working. Failure to follow these overtime approval procedures may subject the employee to disciplinary action, up to and including termination, for violating overtime approval procedures.

#### **602.4.2 Payment of Overtime**

OCPA provides compensation for all overtime hours worked by non-exempt employees in accordance with state and federal law:

- All hours worked in excess of eight (8) hours in one workday or forty (40) hours in one workweek will be treated as overtime.
- One and one-half (1 ½) times regular rate of pay for hours worked in excess of a normal work period, which is forty (40) hours for the workweek, or in excess of eight (8) hours and not more than twelve (12) hours for the workday, and for the first eight (8) hours on the seventh consecutive day of work in one (1) workweek.
- Two (2) times your regular rate of pay for hours worked in excess of twelve (12) hours in one (1) workday and/or in excess of eight (8) hours on the seventh consecutive workday in the same work week.

### **602.5 Accurate Time Reporting**

All employees must accurately report all work time to the nearest five minutes.

### **602.6 No Volunteering of Work Time**

All time spent for the benefit of OCPA must be reported as hours worked on time records so that the employee is paid for all work. Non-exempt employees may not "volunteer" work time to perform duties that are the same or similar as their stated or regular job duties. Employees have



no authorization to work without compensation. No supervisor has authority to request non-exempt employees to volunteer work time.

### **602.7 Compensatory Time Off**

An overtime-eligible employee may opt to accrue compensatory time-off (CTO) in lieu of cash payment for overtime worked if their supervisor agrees prior to overtime work being performed, and the employee has made the request for CTO in lieu of overtime in writing.

- 1. Accrual Rate:** CTO accrues at the rate of 1 ½ hours for each hour, or fraction thereof, worked after 40 hours of actual work within the employee's designated work week. Time in paid leave status does not count toward CTO. CTO cannot be accumulated in excess of 80 hours at any given time.
- 2. Employee Request to Use CTO:** OCPA will grant an employee's request to use accumulated CTO provided that: 1) the department can accommodate the use of CTO on the day requested without undue disruption to department operations; and 2) the employee makes the request in writing to the supervisor no later than five days prior to the date requested. If the employee does not provide five days' notice, or if the department cannot accommodate the time off without undue disruption, OCPA will provide the employee the opportunity to cash out the amount of CTO requested at the end of the current pay period.
- 3. Authority Cash Out:** OCPA reserves the right to cash out accumulated CTO at any time.
- 4. Value of CTO Cash Out:** During employment, CTO is cashed out at the employee's current regular rate of pay (including all applicable salary differentials and special pays). Employees separating from OCPA service shall be compensated for all accrued, unused CTO at their current regular rate of pay.

## **603 Work Hour Deviations**

### **603.1 Advance Request to Deviate from Regular Work Hours**

A non-exempt employee is required to seek advance permission from their supervisor for any foreseeable absence or deviation from regular working, break, or meal times.

### **603.2 Notification of Unforeseen Late Arrival or Absence**

A non-exempt employee who is unexpectedly unable to report for work as scheduled must notify their immediate supervisor no later than the beginning of the employee's scheduled work time and report the expected time of arrival or absence. If the immediate supervisor is not available, the employee must notify the Chief Executive Officer, or their designee.

### **603.3 Unauthorized Absence is Prohibited**

Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited, absent authorization. A non-exempt employee who fails to timely notify the supervisor of any absences as required by this Policy, or who is not present and ready to work during scheduled work times will be deemed to have an unauthorized tardy or absence and will not receive compensation for the period of absence.

### **603.4 Excessive Tardiness/Absenteeism and Abuse of Leave**

Excessive tardiness occurs when a non-exempt employee who, without authorization, is late to work or late to return from breaks more than three times during any 30-day period. Excessive absenteeism occurs when the number of unapproved absences for reasons that are not





permitted by state or federal law, exceeds three days in any three-month period. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination.

Abuse of leave is a claim of entitlement to leave when the employee does not meet the requirements for taking the leave, and may be grounds for discipline, up to and including termination. Should OCPA suspect that there is an abuse of leave by an employee, OCPA may require that the employee submit a physician's certificate to support the absence.

## **604 Time for Lactation**

### **604.1 Lactation Break Time and Location**

OCPA will provide a reasonable amount of break time to accommodate any employee desiring to express breast milk for the employee's infant child each time the employee has a need to express milk. The break time shall, if possible, run concurrently with any break time already provided to the employee.

Those desiring to take a lactation break at times other than their provided break times must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances. Break time for a nonexempt employee that does not run concurrently with rest time already authorized for the employee is unpaid. However, if the employee performs any work during such break, she must accurately record all time worked and OCPA will compensate her for such time.

OCPA will provide a room or other appropriate location in close proximity to the employee's worksite, that is not in a bathroom, to express milk in private. The room or location will meet the following requirements:

- Be shielded from view and free from intrusion while being used to express milk;
- Be safe, clean, and free of hazardous materials;
- Contain a surface on which to place a breast pump and personal items;
- Contain a place to sit; and
- Have access to electricity needed to operate an electric battery-powered breast pump.

An employee occupying such private area shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance.

In addition, OCPA will provide access to a sink with running water and a refrigerator suitable for storing milk (or other cooling device suitable for storing milk) in close proximity to an employee's workspace. No expressed milk shall be stored at OCPA beyond the employee's work day/shift, and all expressed milk should be clearly labeled.

In the event that more than one employee needs use of the lactation room, OCPA will discuss alternative options with the employees to determine what arrangement addresses their needs, such as finding an alternative space or creating a schedule for such use.

Employees who are nursing have a right to request a lactation accommodation. Such requests may be made verbally or in writing, should indicate the need for an accommodation in order to



express breastmilk at work, and should be directed to the Chief Executive Officer, or their designee. OCPA shall respond to such requests in a reasonable manner, not exceeding five business days. If OCPA cannot provide break time, location, or other reasonable accommodations in accordance with this policy, it will inform the requesting employee in writing. Because lactation accommodation needs may change over time, employees may request changes to existing accommodations by a written request to the Chief Executive Officer, or their designee, that describes the nature of the change that is requested.

OCPA prohibits any form of retaliation or discrimination against an employee for exercising or attempting to exercise any rights provided under the above policies. Any such conduct or violations of the above-referenced policies should be reported to the Chief Executive Officer or his designee. Employees also have the right to file a complaint with the California Labor Commissioner for violation of a lactation accommodation right described in the policy above.

## **605 Benefits**

OCPA has developed and invested in a comprehensive employee benefits program. The benefits program consists of programs that may include retirement, health, dental, and vision coverage, and life insurance. Eligibility to participate in these programs is determined by employee classification, length of continued service with OCPA or by law. OCPA reserves the right to change or eliminate any benefit program at any time that is not required by law.

Information describing employee benefits will be provided upon joining the benefits plan. During any leave of absence such as personal leave, Workers' Compensation leave or other disability leave, health benefits will continue through the end of the month. For the duration of any pregnancy disability leave of absence, or New Parent Leave, health and life insurance benefits will be continued for the duration of leave. For more information regarding eligibility, contributions, benefits, and tax status, contact the Chief Executive Officer, or designee. All eligible participants will receive a summary plan description.

### **605.1 Retirement Benefits**

#### *605.1.1 Deferred Compensation Plans*

OCPA shall establish a 401(a) defined contribution retirement plan. OCPA shall pay a matching contribution of ten percent (10%) to each employee's mandatory contribution in lieu of Social Security taxes, fully vested from date of hire.

Employees may elect to participate in a 457(b) deferred compensation retirement plan. Employees may participate optionally and participants contribute tax-deferred salary deductions in a participant-directed account. Contributions are limited to an annual maximum dollar amount, as established under the Internal Revenue Code (IRC). OCPA's employer contribution to the 457(b) plan shall match the employee's voluntary contribution, up to a maximum of four percent (4%) of base salary.

### **605.2 Health and Wellness Benefits**

#### *605.2.1 Medical, Dental, and Vision Insurance*

OCPA shall provide employees covered by this policy an option to enroll in an employer-sponsored group health insurance plan. Covered employees will have the option of enrolling themselves and their eligible dependents into OCPA's group health insurance plan as approved by the Board. Employees become eligible for coverage on the first (1<sup>st</sup>) day of the month



following one (1) complete calendar month after hire date. OCPA shall contribute 95% of the health insurance premium for the Kaiser HMO 15 medical plan, HMO dental plan and VSP Option 5 vision plan with the employee contributing the remainder of the total premium cost. Employees who select a higher cost health insurance option, either PPO or HMO, cover the cost difference.

**605.2.2**      *Cash Payment in Lieu of Health Insurance*

Employees who opt out of enrollment in OCPA's group health insurance plan, in lieu of the above health plan allowance, receive \$500 monthly in cash (subject to taxation as wages) added to their paycheck. In order for an employee to be permitted to opt out of OCPA's group health insurance plan coverage, they must submit proof of comparable coverage by another source.

**605.2.3**      *Flexible Spending Account*

OCPA will make available the option for full-time employees covered under this policy to participate in a Flexible Spending Account (FSA) to use a pre-tax payroll deduction to pay for eligible medical and dependent care expenses per Internal Revenue Code Sections 125 and 129.

C-level executives will receive an employer-paid FSA contribution of \$200 per month.

**605.2.4**      *Wellness Reimbursement*

OCPA will reimburse employees up to \$1,000 per year for qualified health and wellness expenses, including fitness expenses (such as class or program fees, or equipment).

**605.2.5**      *Employee Assistance Program (EAP)*

OCPA provides employer-paid confidential counseling and work/life services assistance for employees and eligible dependents.

**605.3**      *Life Insurance and Disability*

**605.3.1**      *Life Insurance*

Employees covered by this Policy shall be provided a basic group term life insurance policy in the amount of \$200,000.

This insurance is payable in the event of your death, in accordance with the policy, while you are insured. You may change your beneficiary whenever you wish by submitting the appropriate documents to Human Resources. Refer to the literature provided by our insurance provider for details on your life insurance coverage.

**605.3.2**      *Short-term Disability Insurance*

Each employee contributes a percentage of his or her pay up to a maximum amount determined by the State of California for State Disability Insurance (SDI) coverage. This is an employee-only contribution.

This insurance provides low-cost disability protection if illness or injury not caused by the job prevents an employee from working. Paid Family Leave provides income if an employee is unable to work due to the need to care for a qualified family member or to bond with a new child.

No action will be taken against any employee in any manner for requesting or taking any time off as provided in the document or for testifying in a disability proceeding. Employees must file a



claim with the California Employment Development Department to receive any payment from SDI.

#### **605.3.3 Long-term Disability Insurance**

OCPA provides an employer-subsidized private long-term disability plan for employees. The benefit is up to 60% of monthly earnings subject to terms of long-term disability insurance carrier and cap based on salary.

### **605.4 Allowances**

#### **605.4.1 Automobile Allowance**

C-level executives shall receive a gross monthly automobile allowance of five hundred dollars (\$500) per month. This taxable allowance is intended to be in lieu of reimbursement on an itemized basis for mileage, gas, maintenance of a vehicle, etc. Employees who receive an automobile allowance shall not be separately reimbursed for mileage driven in their personal vehicle.

#### **605.4.2 Technology Allowance**

Exempt employees shall receive a \$100 monthly taxable technology allowance to use toward their personal discretionary technological purchases and expenses in furtherance of employment (e.g., mobile phone, tablet, data plan, laptop computer). This taxable allowance is intended to cover all technology-related costs that Employee incurs in the course and scope of employment with OCPA.

### **605.5 Workers' Compensation**

OCPA provides workers' compensation insurance benefits to all employees who experience an injury or illness that arises out of the course and scope of employment. Workers' compensation insurance provides six basic benefits: medical care, temporary disability benefits, permanent disability benefits, supplemental job displacement benefits or vocational rehabilitation, and death benefits. Entitlement to workers' compensation benefits is controlled by applicable law, and as detailed in the company's Work-Related Accident and Injury Policy, employees are required to immediately report all work-related accidents, injuries and illnesses.

All work-related accidents, injuries or illnesses involving employees, even those that are not serious, must be immediately reported to their supervisor. Employees who experience a work-related accident, illness or injury will be required to complete the appropriate forms (DWC-1) and cooperate with OCPA in complying with its recording, reporting and investigation obligations.

If the work-related accident, injury or illness results in the employee being placed on a leave of absence, OCPA's various leave policies will apply to that absence. OCPA strives to bring employees back to work as soon as possible following a work-related accident, injury or illness. Thus, while employees are on a leave of absence, they should stay in contact with their supervisor regarding their expected return to work.

Pursuant to OCPA's Disability and Reasonable Accommodation Policy, when requested, OCPA will provide a reasonable accommodation for any known physical or mental disability of a qualified individual, provided the requested accommodation does not create an undue hardship on OCPA or pose a direct threat to the health or safety of others in the workplace or of the



requesting employee. Once OCPA is aware of the need for an accommodation, OCPA will engage with the employee in an interactive process to identify possible accommodations.

OCPA or its insurer will not be liable for payment of workers' compensation benefits for any injury that arises out of voluntary participation in any off-duty recreational, social, or athletic activity that is not part of work-related duties.

#### **605.6 COBRA**

The Consolidated Omnibus Budget Act ("COBRA") allows employees and dependents to continue health insurance coverage under EBCE's health plan when a "qualifying event" would normally result in the loss of eligibility. Some common qualifying events are resignation, termination of employment, or death of an employee; a reduction in an employee's hours or a leave of absence; an employee's divorce or legal separation; and a dependent child no longer meeting eligibility requirements. Under COBRA, the employee or the beneficiary pays the full cost of coverage at EBCE's group rates (100%), plus an administrative fee. If a "qualifying event" occurs, employees and/or dependents(s) will be provided with a written notice which contains important information about rights and obligations.

#### **605.7 Unemployment Compensation**

OCPA contributes annually to the California Unemployment Insurance Fund on behalf of employees.



## **700 PERFORMANCE EVALUATION POLICIES**

### **701 Performance Evaluations**

#### ***701.1 Performance Evaluations***

OCPA encourages open dialogue between an employee and their supervisor on an informal, regular basis. This type of regular interaction increases job satisfaction for both the employee and OCPA. It is not necessary or recommended that employees wait until a formal performance appraisal period to discuss job performance. Employees are encouraged to freely ask their supervisor for feedback when desired.

Formal performance evaluations will be conducted annually or with greater frequency, dependent on length of service, job position, past performance, changes in job duties, or recurring performance problems. After the review, the employee will be asked to sign the evaluation report to acknowledge that it has been presented to them and discussed with them by their supervisor, and that they are aware of its contents. The Chief Executive Officer, or their designee, will review and approve all performance evaluations prior to inclusion in an employee's personnel file.

Positive performance evaluations do not guarantee increases in salary or promotions. Salary increases and promotions are solely within the discretion of OCPA and depend upon many factors in addition to performance. Wage and salary increases are based on merit alone, and not length of service. Compensation reviews do not necessarily mean that a salary increase will be given.

#### ***701.2 Performance Evaluation Meeting***

The supervisor will meet with the employee to discuss the evaluation. The employee shall sign the evaluation to acknowledge its contents and that they have met with their supervisor to discuss the evaluation. The employee's signature shall not mean that they endorse the contents of the evaluation.

#### ***701.3 No Appeal Right***

An employee does not have the right to appeal or submit a grievance regarding any matter relating to the content of a performance evaluation. Instead, the employee may comment on the evaluation in a written statement which will then be placed with the evaluation in the employee's personnel file. The written statement must be submitted within 10 days after the employee receives the evaluation.



## 800 STANDARDS OF CONDUCT

### 801 Professional Business Conduct and Ethics

By accepting employment, individuals have a responsibility to OCPA and their fellow employees to adhere to certain codes of behavior and conduct. The purpose of these rules is not to restrict or impair any right to free speech, but rather to be certain that a common understanding exists as to what OCPA considers acceptable and unacceptable conduct. It is intended that the following rules of conduct will assist in creating a positive, productive workplace and serve the best interests of OCPA.

Obvious examples of unacceptable activities are noted below; this list is not exhaustive. Other policies in this document, such as Section 1206, *Policy Against Violence in the Workplace* and Section 200, subsection 202, *Policy Against Discrimination, Harassment and Retaliation*, address unacceptable and criminal behavior as well. Violations of these policies are subject to disciplinary action up to and including termination as outlined in Section 1101 *Causes for Discipline*.

Employees are asked to keep in mind, at all times, the value of professional conduct and give proper regard to the welfare and rights of co-workers. Occurrences violating this section may result in disciplinary action up to and including immediate suspension or termination:

#### Unacceptable Activities:

1. Falsification of timekeeping records.
2. Dishonesty; falsification or misrepresentation on an application for employment or other work records; lying about sick or personal leave; falsifying reasons for a leave of absence or other data requested by OCPA; alteration of OCPA records or other OCPA documents.
3. Theft or inappropriate removal or possession of OCPA property or the property of fellow employees.
4. Boisterous or disruptive activity in the workplace.
5. Negligence or any careless action leading to damage of OCPA-owned or customer-owned property or which endangers the life or safety of another person.
6. Obscene or abusive language toward any supervisor, employee, customer, or member of the public; indifference or rudeness towards a customer or fellow employee; any disorderly/antagonistic conduct on OCPA premises.
7. Insubordination or other disrespectful conduct; refusing to obey instructions properly issued by a supervisor pertaining to an employee's work; refusal to assist on a special assignment.
8. Violation of security or safety rules or failure to observe safety rules and/or practices; failure to wear required safety equipment; tampering with OCPA equipment or safety equipment.
9. Creating or contributing to unsanitary conditions.
10. Smoking in prohibited areas.
11. Possession of dangerous or unauthorized materials, such as explosives or firearms, in the workplace.
12. Unauthorized absence from work station during the workday; sleeping or loitering during working hours.
13. Originating, spreading, and taking part in malicious gossip or false rumors about employees of OCPA.



14. Unauthorized disclosure of confidential information; giving confidential or proprietary information to competitors or other organizations or to unauthorized OCPA employees; breach of confidentiality of personnel or OCPA information.
15. Violation of OCPA rules or policies; any action that is detrimental to OCPA's efforts to operate successfully.
16. Unsatisfactory or careless work; failure to meet production or quality standards as explained to an employee by their supervisor.
17. Soliciting during working hours and/or in working areas; selling merchandise or collecting funds of any kind for charities or others without authorization during business hours, or at a time or place that interferes with the work of another employee on OCPA premises.
18. Conducting a lottery or gambling on OCPA property.
19. Failure to immediately report any damage or accident involving OCPA equipment and vehicles.
20. Failure or refusal to comply with the work schedule, including mandatory overtime.

### **801.1 Customer and Public Relations**

The success of OCPA depends upon the quality of the relationships between OCPA, its employees, customers, suppliers and the general public. Customers' impression of OCPA and their interest and willingness to do business with OCPA is formed by how they are served. Employees are considered ambassadors of OCPA. The more goodwill employees promote, the more customers will respect and appreciate the services OCPA provides.

The following actions are encouraged and considered representative of the level of customer relations service expected of Authority employees:

1. Customers are to be treated courteously and given proper attention at all times. Customers' questions or concerns are never to be considered an interruption or an annoyance. Customer inquiries, whether in person or by telephone, must be addressed promptly and professionally.
2. Telephone callers are never to be placed on hold for an extended period of time. Calls are to be directed to the appropriate person and assurance is to be made that the call was received.
3. Employees are expected to act competently and deal with customers in a courteous and respectful manner. If unable to help a customer, employees are expected to assist in finding an employee who can.
4. All correspondence and documents are to be neatly prepared and error-free. Attention to accuracy and detail in all paperwork demonstrates commitment to those encountered during the course of business activities.
5. If a problem develops with a customer, or if a customer is experiencing a level of dissatisfaction an individual employee is unable to resolve, requesting a supervisor to intervene is required.

### **801.2 Media Contact**

OCPA designates individuals as contacts for OCPA and only those individuals may comment on Authority policy, or on behalf of OCPA. Employees who are contacted by a news organization for an OCPA statement on any matter are expected to direct media inquiries to a supervisor.

### **801.3 Social Media Guidelines**

Various forms of communication occur through social media, such as Facebook, Twitter, LinkedIn, Reddit, Yelp, Instagram, Snapchat, blogs, media sharing and multimedia host sites





such as YouTube. Employees should keep in mind that social media sites do not provide a private setting. Employees who communicate information through social media therefore must not expect that such information is private.

Employees must remember that all existing policies apply to information disseminated through social media. These guidelines are intended to help employees understand some of the unintended outcomes of sharing information through social media.

#### **801.4 Confidentiality**

Employees are responsible for safeguarding confidential information obtained during their employment with OCPA. Additionally, customers, employees and vendors entrust OCPA with important information related to businesses or personal information. The nature of this relationship requires maintenance of confidentiality.

It is an employee's responsibility to maintain strict confidentiality where personal, proprietary, or sensitive business information is concerned, unless it is necessary to do so in the performance of duties. Such confidential information includes, but is not limited to, the following examples:

- Customer lists and customer history
- Pending projects and proposals
- Marketing strategies
- Compensation data
- Budget information
- Periodic business reports and summaries
- Bid proposals and contract negotiations
- Statistical data
- Research and development programs
- Mergers/dissolutions
- Employee data
- Financial information
- Pricing information
- Passwords
- Business plans

Disclosure of confidential information may lead to disciplinary action, up to and including termination, as well as other possible legal action.



## 900 LEAVES OF ABSENCE

### 901 Paid Time Off (PTO) and Holidays

Each provision in this Section shall apply to all OCPA positions unless covered by alternate means.

#### **901.1 Paid Time Off (PTO) Eligibility**

Paid Time Off (PTO) is an all-purpose time-off policy for eligible employees to use for vacation, personal business, sick leave, the diagnosis, care, treatment of an existing health condition or preventative care of an employee, family member or for employees who are victims of domestic violence, sexual assault or stalking to seek aid, treatment, or related assistance. A "family member" for these purposes is defined as a child (a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), a parent (a biological, adoptive or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), a spouse or registered domestic partner, a grandparent, grandchild and sibling. Regular full-time employees are eligible to earn and use PTO as described in this policy.

PTO begins accruing upon your date of hire. Employees may begin using PTO as it is accrued.

#### **901.2 Accrual of PTO**

All full-time employees scheduled 40 hours per week are eligible to accrue PTO per pay period. Regular, full-time employees scheduled to work 40 hours per week accrue at least 180 hours per year, or 7.5 hours of PTO per pay period in their first year of employment. Full-time employees scheduled less than 40 hours per week will accrue PTO on a pro-rata basis on the number of hours scheduled. After your first anniversary, and thereafter until your 10th year of employment, you will receive an additional eight (8) hours per year which will accrue at an additional rate of .33 hours per pay period.

The length of eligible service is calculated on the basis of a "benefit year." This is the 12-month period that begins when you start to earn PTO. You will not earn PTO while you are out on a leave of absence, except to the extent you use PTO to cover your leave period. Employees accrue PTO hours on PTO hours used. Therefore, your benefit year may be extended if you go out on a leave of absence other than a military leave of absence. Military leave has no effect on this calculation. (See individual leave of absence policies for more information.)

Part-time and temporary employees, as well as paid interns, will be granted 24 hours of PTO upon hire and on January 1st of each year thereafter. Part-time and temporary employees, as well as paid interns, may begin using PTO upon completion of 30 days worked for OCPA.

##### **901.2.1 Maximum PTO Accrual**

Employee can accumulate PTO up to a balance of twice the annual PTO for which they are entitled. Once that limit is reached, employees will no longer accrue PTO unless and until some PTO is used. Accrued PTO carries over into the next calendar year.



### **901.3 Scheduling of PTO**

All requests for time off (PTO or unpaid) shall be submitted to the employee's immediate supervisor or manager with as much advance notice as possible.

PTO can be used in minimum increments of one (1) hour for non-exempt employees.

Exempt employees may use PTO in ½ day (four hour) increments. Exempt employees may be required to use PTO for partial day absences in increments of 4 hours or greater, when the employee is absent for personal reasons and is unavailable for work.

Authority to approve the request is at the sole discretion of the requesting employee's immediate supervisor based on the nature of the request and the operational demands of the department.

If you have an unexpected need to be absent from work you should notify your direct supervisor before the scheduled start of your workday, if possible. Your direct supervisor must also be contacted on each additional day of unexpected absence.

To schedule planned PTO, you need to request advance approval from your supervisor. Requests will be reviewed based on a number of factors, including business needs and staffing requirements.

Employees will request advance approval from their supervisor if they need to cancel or adjust any previously approved PTO. Example: an employee received approval for eight hours of PTO time. A change in plans requires the employee to cancel the request for PTO and work a regular eight hours or a half day of four hours. The employee will inform the supervisor in writing and, if approved, the previously approved PTO will be voided or reduced, based on the new request.

### **901.4 Payment of PTO**

PTO is paid at your base pay rate at the time of absence. It does not include overtime or any special forms of compensation such as incentives, commissions, or bonuses.

A paid absence is counted as hours worked for the purposes of computing a 40-hour week but is not counted as a basis for computing overtime.

PTO will be used to supplement any payments that you are eligible to receive from disability insurance or workers' compensation. The combination of any such disability payments and PTO cannot exceed your normal weekly earnings. All accrued, unused PTO will be paid at the termination of employment.

### **901.5 PTO for Sick Leave**

Because OCPA's PTO plan provides for accrual that is as or more generous than California's sick leave law, OCPA is not required to have a separate sick leave accrual plan. Employees may use PTO for sick leave for their own serious health condition or for the health condition of a family member as defined above or for time off in connection with obtaining relief if the employee is a victim of domestic violence, sexual assault, or stalking. Employees may designate up to one-half of their accrued PTO as "Kin Care" for these purposes. Employees will not be subject to discipline for designating time as Kin Care.



### **901.6 PTO Buyback Provision**

On or before the pay period which includes December 20<sup>th</sup> of each calendar year, an employee may make an irrevocable election to cash out up to 50% of accrued PTO leave (in whole hour increments). The employee will receive full value for the amount of PTO leave the employee irrevocably elected to cash out.

### **901.7 Unused PTO Leave Upon Separation**

Upon termination of employment, employees are paid at their regular rate of pay for unused PTO that has been earned through your last day of work.

### **901.8 Holidays**

#### *901.8.1 Observed Holidays*

The recognized holidays to be observed by OCPA in each calendar year shall be as follows:

- New Year's Day (January 1st)
- Martin Luther King Jr. Day (third Monday in January)
- President's Day (third Monday in February)
- Memorial Day (last Monday in May)
- Independence Day (July 4th)
- Labor Day (first Monday in September)
- Veterans Day (November 11th)
- Thanksgiving Day (fourth Thursday in November)
- Day after Thanksgiving
- Christmas Eve (December 24th)
- Christmas Day (December 25th)
- New Year's Eve (December 31st)

Unless otherwise determined by OCPA, the actual dates for each of the foregoing holidays shall occur on the dates set by applicable state and federal statutes.

If any of the foregoing holidays falls on a Sunday, the following Monday shall be considered the holiday. If any of the foregoing holidays falls on a Saturday, the preceding Friday shall be considered the holiday, unless this too is a holiday, then the holiday shall be one day sooner.

#### *901.8.2 Holiday Closure*

Additionally, offices will remain closed December 26 through January 1, unless a supervisor specifically requires an employee to work.

### **901.9 Pay for Holidays**

Employees shall be paid for the number of hours the employee was scheduled to work had it not been a holiday. In order to receive compensation for holidays as provided herein, an employee must be on paid status for all of the regularly assigned work schedule immediately prior to and following the holiday. For the purposes of this section, an employee who is absent on paid time off leave shall be deemed to be employed at such time.

If a holiday falls on an employee's regularly scheduled time off, the employee may take the holiday on another day during the workweek with prior approval of their supervisor. If an



employee is on Industrial Injury Leave during the holiday, it shall not be counted as both Industrial Injury Leave and holiday.

#### **901.10 Effect of Holiday on PTO**

If one or more holidays falls within a PTO leave that an employee is taking, such holiday shall not be charged as PTO leave.

## **902 Family and Medical Care Leaves**

### **902.1 Leave Pursuant to Family Medical Leave Act (“FMLA”) and California Family Rights Act (“CFRA”)**

OCPA provides family and medical care leave for eligible employees as required by State and federal law. Unless otherwise stated in this Policy, “Leave” means leave pursuant to the FMLA and CFRA. Unless otherwise provided by law, OCPA will run each employee’s FMLA and CFRA leave usage concurrently.

### **902.2 Leave Entitlements and Duration**

Eligible employees are entitled to take up to 12 weeks of leave in a 12-month period under the CFRA and up to 12 weeks per calendar year of FMLA. In most cases, FMLA leave due to pregnancy, childbirth or a related medical condition and Pregnancy Disability Leave (“PDL”) run concurrently (see, section 903, below). PDL of up to four months is provided to an employee who is actually disabled due to pregnancy. However, pregnancy related disability is specifically excluded as a reason for CFRA leave and therefore leave under PDL and leave under CFRA are separate and distinct entitlements and do not run concurrently. An employee disabled due to pregnancy may take up to four months of PDL leave, and, if eligible may be entitled to an additional 12 weeks of CFRA leave to care for a child after the birth. The maximum possible combined leave for both PDL leave and CFRA leave for the reason of the birth of a child is four months and 12 workweeks. Employees may also take intermittent leave to care for themselves or to care for a family member with a serious health condition.

There is no minimum amount of leave that must be taken for either FMLA or CFRA leave. If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g. bonding with a newborn) for less than two weeks duration on any two occasions.

### **902.3 Definitions Under FMLA and CFRA**

- (a) *12-month Period*: OCPA uses a twelve (12) month period measured forward method of determining the timeframe in which this leave may occur. This is defined as a 12-month period which begins on the first day the eligible employee takes leave under FMLA and ends 12 months after that date. For example, if John begins leave on November 1, 2021, then his 12-month period is measured from November 1, 2021, to October 31, 2022.
- (b) *Family Member*: Family member for FMLA leave means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and “incapable of self-care because of a mental or physical disability” at the time that FMLA leave is to commence, .a parent which means a biological, adoptive, step or foster father or mother, or any other individual who



stood in loco parentis to the employee when the employee was a son or daughter, and spouse, which means a husband, wife, or other person as recognized under State law for the state in which the marriage was entered into or, if the marriage was not entered into in any state, then the place in which the marriage was entered into; . “Family member” for CFRA leave means an employee’s minor children, dependent adult children, the children of a domestic partner, parents, spouse, domestic partner, grandchildren, grandparents, and siblings.

(c) *Serious Health Condition*: An illness, injury impairment, or physical or mental condition that involves:

1. Inpatient Care in a hospital, hospice, or residential medical care facility; continuing treatment by a health care provider;
2. Any period of incapacity due to pregnancy or for prenatal care. Note that pregnancy is a “serious health condition” only under the FMLA. Under California law, an employee disabled by pregnancy is entitled to pregnancy leave. (See Policy 905, Leave Because of Pregnancy, Childbirth, or Related Medical Condition.);
3. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition;
4. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by health care provider.

(d) *Health Care Provider means*:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of California or another state or jurisdiction;
2. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
3. Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
4. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
5. Any health care provider from whom an employer or group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

#### **902.4 Reasons for Leave**

Leave is only permitted for the reasons listed below.

- (a) The birth of a child or to care for a newborn of an employee;
- (b) The placement of a child with an employee in connection with the adoption or foster care of a child;
- (c) Leave to care for a child, parent, or spouse, who has a serious health condition;



- (d) Under the CFRA only, leave is permitted to care for a domestic partner, grandparent, grandchild, or sibling who has a serious health condition. Leave for this purpose does not apply to FMLA leave and will run concurrently with leave used under the FMLA;
- (e) Leave because of a serious health condition that makes the employee unable to perform any one or more essential functions of their position;
- (f) Leave for a variety of “qualifying exigencies” arising out of the fact that an employee’s spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation;
- (g) Under the CFRA only, leave for a variety of “qualifying exigencies” arising out of the fact that an employee’s domestic partner is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation. Leave for this purpose does not apply to FMLA leave and will not be run concurrently with leave usage under the FMLA; or
- (h) Leave to care for a spouse, son, daughter, parent, or “next of kin” who is a covered servicemember of the U.S. Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty, or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period.

#### **902.5 Eligibility**

An employee is eligible for leave if:

- (a) The employee has been employed by OCPA for at least 12 months; and
- (b) The employee has been employed by OCPA for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave; and
- (c) For FMLA leave eligibility, OCPA must directly employ at least 50 full or part-time employees within a 75-mile radius for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year. The workweeks do not have to be consecutive. The phrase “current or preceding calendar year” refers to the calendar year in which the employee requests the leave or the calendar year preceding this request. This criteria is not required and does not apply in order for an employee to be eligible for CFRA leave.

#### **902.6 Employee Benefits While on Leave**

Leave under this Policy is unpaid. While on unpaid leave, employees will continue to be covered by OCPA’s group health insurance for up to 12 weeks each leave year to the same extent that coverage is provided while the employee is on the job. If the employee is disabled by pregnancy, coverage will continue up to four months each leave year. If an employee disabled by pregnancy also uses leave under the CFRA for baby-bonding, OCPA will maintain her coverage while she is disabled by pregnancy (up to four months or 17 1/3 weeks) and during her CFRA leave (up to 12 weeks).



While on unpaid leave, employees will continue to be covered by OCPA's benefits plans that are not part of its group health plan for up to 12 weeks each leave year to the same extent that coverage is provided while the employee is on the job.

Employees may make the appropriate contributions for continued coverage under the health benefits plans by payroll deductions (if the employee is using their paid leave) or direct payments (if the employee is not using their paid leave).

**902.7.1 Employee Must Use Paid Leave When Using FMLA/CFRA Leave**

Employees must use and exhaust their accrued leaves concurrently with family and medical care leave to the same extent that employees have the right to use their accrued leaves with two exceptions:

- (a) Employees are not required to use paid leave during leave pursuant to a disability plan that pays a portion of the employee's salary while on leave unless the employee agrees to use paid leave to cover the unpaid portion of the disability leave benefit; and
- (b) An employee must agree to use accrued sick leave to care for a child, parent, spouse, domestic partner, grandparent, grandchild, or sibling.

**902.7.2 Authority's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently with Other Leaves**

If an employee takes a leave of absence for any purpose which also qualifies under the FMLA and/or CFRA, OCPA will designate that leave as running concurrently with the employee's 12-week FMLA and/or CFRA leave entitlement.

**902.7 Medical Certification/Recertification**

Employees who request leave must provide a medical certification and/or recertification to support the need for the leave as described below:

- (a) **Employee's Own Serious Health Condition:** Employees who request leave for their own serious health condition must provide written certification from the health care provider that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; and a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of their position. Upon expiration of the time period, which the health care provider originally estimated the employee needed for their own serious health condition, the employee must obtain recertification if additional leave is requested.
- (b) **Family Member Serious Health Condition:** Employees who request leave to care for a child, parent, domestic partner, spouse, grandparent, grandchild, or sibling who has a serious health condition must provide written certification from the health care provider of the family member requiring care that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, domestic partner, spouse, grandparent, grandchild, or sibling and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent, domestic partner, spouse, grandparent, grandchild, or sibling. The term "warrants the





participation of the employee” includes, but is not limited to, providing psychological comfort, arranging third party care for the covered family member, and directly providing or participating in the medical care. Upon expiration of the time period which the health care provider originally estimated the employee needed for their family member’s serious health condition, the employee must obtain recertification if additional leave is requested.

- (c) When an employee has provided at least 30 days’ notice for a foreseeable leave, the employee must provide a medical certification before the leave begins. When this is not possible, the employee must provide the medical certification to OCPA within the time frame requested by OCPA (which must allow at least 15 calendar days after the employer’s request), unless it is not practicable under the particular circumstances to do so despite the employee’s diligent, good faith efforts.
- (d) Certifications must be complete and provide sufficient information to support the request for leave. A certification is incomplete if one or more of the applicable entries on the certification form have not been completed. A certification is insufficient if the information on the certification form is vague, ambiguous, or not responsive. If the certification is incomplete or insufficient, the Chief Executive Officer, or their designee, will give the employee written notice of the deficiencies and seven days to cure, unless a longer period is necessary in light of the employee’s diligent, good faith efforts to address the deficiencies.
- (e) If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established in this Policy, OCPA may delay the taking of FMLA/CFRA leave until required certification is provided, or deny FMLA/CFRA protections following the expiration of the time period to provide an adequate certification.

#### **902.8 Employee Notice of Leave**

Although OCPA recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much verbal or written notice as possible of their need for leave. If leave is foreseeable, at least 30 days’ notice is required. In addition, if an employee knows that they will need leave in the future, but does not know the exact day(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform their supervisor as soon as possible that such leave will be needed. For foreseeable leave due to a qualifying exigency, an employee must provide verbal or written notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

#### **902.9 Reinstatement Upon Return from Leave**

- (a) **Reinstatement to Same or Equivalent Position:** Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent benefits and pay. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.
- (b) **Date of Reinstatement:** If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the



reinstatement date differs from the original agreement of the employee and OCPA, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of their readiness to return.

**(c) Employees may be required to periodically report on their status and intent to return to work:** This will avoid any delays to reinstatement when the employee is ready to return.

**(d) Fitness for Duty Certification:** As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition which made the employee unable to perform their job, the employee must obtain and present a fitness-for-duty certification from the health care provider stating that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

### **902.10 Required Forms**

Employees must complete the applicable forms to receive family and medical care leave. The forms may be found in the administrative offices of OCPA.

## **903 Leave Because of Pregnancy, Childbirth, or Related Medical Condition**

### **903.1 Amount of Leave**

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid leave for up to the number of hours she would normally work within four calendar months (one-third of a year or 17 1/3 weeks). For a full-time employee who works 40 hours per week, "four months" means 693 hours of leave entitlement, based on 40 hours per week multiplied by 17 1/3 weeks. An employee who works less than 40 hours per week will receive a pro rata amount of leave equivalent to their average hours worked per week multiplied by 17 1/3.

There is no qualification period for pregnancy disability leave.

### **903.2 Notice and Certification Requirements**

Requests for pregnancy disability leave must be submitted in writing with reasonable advance notice of the medical need for the leave. All leaves must be confirmed in writing and be supported by a written certification from the attending physician stating that:

- (a) The employee is disabled from working by pregnancy, childbirth or a related medical condition;
- (b) The date on which the employee became disabled by pregnancy, childbirth or a related medical condition;
- (c) The estimated duration or end date of the leave.

### **903.3 Compensation During Leave**

Pregnancy disability leave is unpaid unless the employee elects to use accrued PTO or CTO.



### **903.4 Benefits During Leave**

**Group Health Insurance:** An employee on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before her leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. OCPA may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave.

**PTO Leave:** PTO leave does not accrue while an employee is on unpaid pregnancy disability leave.

### **903.5 Reinstatement**

Upon the conclusion of pregnancy leave, the employee will be reinstated to her original or a comparable position, so long as it was not eliminated for a legitimate business reason during the leave. If the employee's original position is no longer available, the employee will be assigned to a comparable, open position.

If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, OCPA will initiate an interactive process with the employee in order to identify a potential reasonable accommodation in accordance with these Policies. (See Reasonable Accommodation and Interactive Process.)

## **904 Other Leaves**

### **904.1 Executive Leave**

Effective the pay period which includes January 1 of each year, C-level executive employees shall receive an Executive Leave benefit of eighty (80) hours per year. Such leave shall be available for employees to use from the beginning of the first pay period beginning in the calendar year through the end of the last pay period beginning in the calendar year. Such hours shall not accrue from year to year. This leave has no cash value and cannot be cashed out. If, at the end of the calendar year, the employee has any of this leave on the books, with the pay period including January 1, they will be provided with whatever amount of leave is necessary to bring their bank up to 80 hours. Newly hired or newly promoted C-level executives who are exempt from FLSA overtime will receive a prorated amount of executive leave for the year in which they are hired.

### **904.2 Jury Duty Leave/Subpoenaed Leave or Court Ordered Witness Leave**

Any employee who is summoned to serve on a jury, or subpoenaed or ordered to be a witness, must notify their supervisor or department head as soon as possible. Any employee who is released from jury service prior to the end of their scheduled work hours must report to work unless otherwise authorized by their supervisor. Paid jury duty is limited to a maximum of 80 hours in a calendar year. If an employee, despite reporting the limit to the Court, is required to serve beyond 80 hours they can request the Chief Executive Officer or their designee to approve an exception to the limit on paid Jury Duty Leave.

#### **904.2.1 Non-exempt Employees**



All non-exempt employees will be paid for actual work hours missed because of time spent in jury service or court (up to 80 hours unless otherwise approved). The time spent on jury duty is not work time for purposes of calculating overtime compensation. OCPA will offset from pay the amount the employee receives from the Court for jury fees.

**904.2.2 Exempt Employees**

All FLSA-exempt employees will continue to receive their normal salary (up to 80 hours unless otherwise approved) while on jury duty or as serving as a witness only for any workweek in which they perform any work duties. OCPA will offset the amount from pay the employee receives from the Court for jury fees.

**904.3 Other Court or Administrative Proceeding Appearances**

**904.3.1 Regarding OCPA Duties**

Any employee who is subpoenaed to appear in court in a matter regarding an event or transaction that occurred in the course of their job duties must give their supervisor as much advance notice as possible. OCPA will determine whether the matter involves an event or transaction that occurred in the course of the employee's job duties. If so, time spent to appear in court will be without loss of compensation, and the time spent will be considered work time. OCPA will offset the amount from pay the employee receives for witness fees.

**904.3.2 Regarding Employee-Initiated Proceedings**

Any employee who is required to appear in court because of civil or administrative proceedings that they initiated is not entitled to receive compensation for time spent related to those proceedings. An employee may request to receive time off without pay, or may use accrued PTO for time spent related to those proceedings. The time spent in these proceedings is not considered work time.

**904.3.3 Regarding Crime Victim/Victim Family Member Court Attendance Leave**

Any employee who is a victim of a crime that is a serious or violent felony, or a felony involving theft or embezzlement, may take leave from work to attend judicial proceedings related to that crime, if the employee provides OCPA a copy of the notice of the scheduled proceeding in advance. If advance notice is not feasible, then the employee must provide OCPA, within a reasonable time after the leave is taken, documentation from the District Attorney, victim's rights office, or court / governing agency that shows that the judicial proceeding occurred when the leave was used. An employee who is an immediate family member of such a crime victim, including: a registered domestic partner, the child of the registered domestic partner, spouse, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, or stepfather of the crime victim is also entitled to leave from work to attend judicial proceedings relating to that crime. The leave is unpaid unless the employee elects to use PTO, or CTO.

**904.3.4 Regarding Crime Victim/Family Member Victim's Rights Proceedings Leaves**

Any employee who is a victim of a crime listed in Labor Code section 230.5(a)(2)(A) (domestic violence, sexual assault or stalking) may take leave from work to appear in court to be heard at any proceeding in which the right of the victim is at issue, if the employee provides the employer reasonable advance notice. If advance notice is not feasible, then the employee must provide OCPA, within a reasonable time after the leave is taken, certification from a police report, a district attorney or court, or from a health care provider or victim advocate, that the employee was a victim of any of the crimes listed in Labor Code section 230.5(a)(2)(A). An employee who is a spouse, parent, child, sibling, or guardian of such a crime victim is also a victim who is



entitled to this leave if the above notice or certification requirements are met. The leave is unpaid unless the employee elects to use PTO or CTO.

**904.4 Leave for Victim of Domestic Violence, Sexual Assault, or Stalking to Obtain Restraining Orders or Injunctive Relief**

Any employee who is a victim of domestic violence, sexual assault or stalking may take leave from work to obtain or attempt to obtain any relief, including, but not limited to a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or their child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use accrued PTO or CTO.

**904.4.1 Leave for Victim of Domestic Violence, Sexual Assault, or Stalking to Obtain Medical Attention or Counseling or Safety Planning**

Any employee who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to attend to any of the following: obtaining medical attention or psychological counseling; obtaining services from a shelter, program or crisis center; or participating in safety planning or other actions to increase safety, if the employee provides advance notice of the employee's intention to take time off for these purposes. If advance notice is not feasible, the employee must provide any of the following to OCPA within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use accrued PTO or CTO.

**904.5 Bereavement Leave**

Employees shall receive up to forty (40) paid hours in any one instance for absence necessitated by the death of immediate family members. Such leave shall not be accrued from year to year. The immediate family shall be defined to mean father, father in-law, mother, mother in-law, stepparent, brother, stepbrother, sister, stepsister, wife, husband, registered domestic partner (as defined by California Family Code section 297), child, stepchild, grandparent, grandparents' in-law, grandchild, legal guardian, or other individuals whose relationship to the employee is that of a dependent, or a person who stood *in loco parentis* (in place of a parent) to the employee.

**904.6 Military Leave**

Military leave will be granted in accordance with state and federal law. An employee requesting leave for this purpose shall promptly provide the department head with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the department head may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.



**904.7 School or Licensed Daycare Activity Leave**

Any employee who is a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to one or more children who are in kindergarten or grades 1 through 12, or who are in a licensed child care facility, shall be allowed up to 40 hours each school year, not to exceed eight hours in any calendar month of the school year, to: participate in activities of their child's school or licensed child care facility; find, enroll, or reenroll a child in a school or with a licensed child care provider; or to pick up a child due to a child care provider or school emergency. The employee must provide reasonable advance notice to their supervisor of the planned absence. The leave is unpaid unless the employee elects to use accrued PTO or CTO. The employee must provide documentation from the school or licensed child care facility as verification that the employee participated in school or child care facility activities on a specific date and at a particular time.

**904.8 Paid Administrative Leave**

OCPA has the right to place an employee on leave with full pay for non-disciplinary reasons at any time when the Chief Executive Officer, or their designee, has determined that the employee's and/or OCPA's best interests warrant the leave.

**904.9 Leave of Absence Without Pay Must Be Authorized by Law or These Policies**

Unless authorized by law or an OCPA policy, an employee is not entitled to a leave of absence without pay. An authorized leave of absence without pay is not a break in service for purposes of calculating seniority. Unless required by law, PTO, increases in salary, all other paid leaves, holidays and fringe benefits and other similar benefits do not accrue to an employee on unpaid leave. Unless required by law, OCPA will not maintain contributions toward group insurance or retirement coverage for the employee on such leave. During the period of authorized unpaid leave, all service and leave credits shall be retained at the levels existing as of the effective date of the leave.

**904.10 Industrial Injury Leave**

Employees who are absent from work by reason of an injury or illness covered by workers' compensation shall continue in pay status under the provisions of this Section.

**904.10.1 Coordination of Benefits**

When the employee authorizes, the difference between the amount granted pursuant to such workers' compensation and the employee's regular pay will be deducted from the employee's accumulated PTO, if any. The employee will continue in pay status and receive their pay until their accumulated PTO and CTO have been depleted.

**904.10.2 Accrual of PTO Leave Continues While on Paid Leave**

During the time the employee is in fully paid status while absent from work by reason of injury or illness covered by workers' compensation, he or she shall continue to accrue PTO as though he or she were not on leave of absence.

**904.10.3 Unpaid Leave and Continuation of Health Care Benefits**

Any employee subject to this Policy who depletes their accumulated PTO or CTO while absent from work by reason of an injury or illness covered by workers' compensation may receive an unpaid leave of absence and continuation of health care benefits consistent with state and/or federal law.



**904.11 Time Off to Vote**

Any employee who does not have sufficient time outside of working hours to vote may request up to two hours of paid leave either at the beginning or end of scheduled working hours to enable them to vote. The employee must request time off to vote from their supervisor at least two days prior to election day.

**904.12 Alcohol and Drug Rehabilitation Leave**

OCPA provides an unpaid leave to assist employees who recognize that they have a problem with alcohol or drugs that may interfere with their ability to safely and competently perform their job. If an employee recognizes a problem with alcohol and/or drugs and decides to enroll voluntarily in a rehabilitation program the employee will be given unpaid time off. Employees are eligible to request this leave after 90 days of continuous employment. The leave is unpaid unless the employee elects to use PTO or CTO.

For the duration of the absence, health and life insurance benefits ordinarily provided by OCPA, and for which an employee would be otherwise eligible, will be continued for a maximum period of 12 weeks from the start of the leave. During this time, the employee will be required to contribute their portion of the premium on the same basis as would have been required during active work status, including payment of any premium for elected dependent coverages.

Beyond this coverage period, if an employee must remain on leave and wishes to continue these benefits, they may do so by electing to continue the benefit through COBRA provisions, and by paying the applicable premiums.

**904.13 Bone Marrow and Organ Donation Leave**

Employees who have been employed for at least 90 days and who are donating an organ may take a paid leave of absence not exceeding 30 business days (which may be taken in one or more periods) in any 12-month period. Employees who are donating their bone marrow to another person may take a paid leave of absence not exceeding 5 business days (which may be taken in one or more periods) in any 12-month period. An additional unpaid leave of up to 30 business days in a 12-month period may be granted to an employee donating an organ.

Requests for leave must be made in writing as far in advance as possible. Employees must provide a written medical certification from their health care provider to the Chief Executive Officer that shows that they are a bone marrow or organ donor and that there is a medical necessity for the donation.

Bone Marrow and Organ Donation leave is a paid leave; however, employees are required to use up to 5 days of accrued PTO for bone marrow donation, and up to 2 weeks of accrued PTO for organ donation.

For the duration of the absence, health and life insurance benefits ordinarily provided by OCPA, and for which an employee would be otherwise eligible, will be continued for a maximum period of 12 weeks from the start of the leave. During this time, the employee will be required to contribute their portion of the premium on the same basis as would have been required during active work status, including payment of any premium for elected dependent coverages.

When ready to return to work after a Bone Marrow or Organ Donation leave, an employee's medical care provider must provide certification to OCPA that the employee is able to safely perform all of the essential functions of their position with or without reasonable



accommodation. Except as otherwise allowed by law, employees are entitled, upon return from leave, to be reinstated in the position held before the Bone Marrow or Organ Donation leave, or to be placed in a comparable position with comparable benefits, pay, and terms and conditions of employment.





## **1000 SEPARATION OF EMPLOYMENT**

### **1001 Resignation, Job Abandonment, Layoff, and Separation**

#### ***1001.1 Types of Separation***

OCPA strives to ensure a smooth transition for all employees whose employment terminates. All separations of employees from positions in OCPA employment are designated as one of the following types:

1. Release of temporary employees;
2. Resignation;
3. Retirement;
4. Job abandonment;
5. Layoff and work reductions;
6. Involuntary separation.

#### ***1001.2 Release of Temporary Employees***

A temporary employee may be separated at any time, without cause.

#### ***1001.3 Resignation***

An employee who wishes to voluntarily resign their OCPA employment in good standing is asked to provide the professional courtesy of two weeks' written notice of resignation. The notice given will be noted on the employment record and will be considered in any discussion regarding rehire or reference information. A resignation becomes final when OCPA accepts the resignation in writing. Once a resignation has been accepted, it is final and irrevocable, unless an exception is made by the CEO or their designee.

Once notice has been given, accrued and unused PTO normally may not be taken, unless an exception is granted by the CEO or their designee. A resignation can be accepted even if it is submitted less than two weeks prior to the planned resignation date.

#### ***1001.4 Retirement***

An employee planning to retire may provide a written notice to the department head prior to the effective date of the retirement. A notice of retirement becomes final when the department head accepts the notice of retirement in writing. Once a notice of retirement has been accepted, it is final and irrevocable.

#### ***1001.5 Job Abandonment***

An employee is deemed to have resigned from their position if he or she is absent for three consecutive scheduled work days/shifts without prior authorization and without notification during the period of the absence. The employee will be given written notice, at their address of record, of the circumstances of the job abandonment, and an opportunity to provide an explanation for the employee's unauthorized absence.

An employee who promptly responds to OCPA's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with their supervisor before final action is taken to explain the unauthorized absence and failure of notification. An employee separated for job abandonment will be reinstated upon proof of justification for such absence, such as severe accident, severe illness, or mental or physical impairment which prevented notification. No employee separated for job abandonment has the right to a post-separation appeal.



### **1001.6 Layoff and Work Reductions**

Whenever in the judgment of the Board of Directors a reduction in personnel is necessary for economic or operational reasons, any employee may be laid off or demoted for non-disciplinary reasons.

Depending on the scope of the reduction (i.e., OCPA-wide, job classification, position), employees will be selected for layoff based on a combination of factors, including, but not necessarily limited to: past performance and productivity, qualifications, attendance, ability and willingness to work the required days and hours, and the ability to work cooperatively with others in the affected work unit.

The weight given to the above factors may vary depending upon the particular needs of the affected work unit and OCPA as a whole at the time of the layoff. Seniority shall be considered only when, in the sole discretion and opinion of the OCPA, all other factors are equal between two or more employees in the affected work unit. Seniority will be computed based on an employee's total continuous service with OCPA. For this purpose, continuous service before and after any break in service of less than 30 days or an approved leave of absence, will be counted.

### **1001.7 Involuntary Separation**

Involuntary separation from service means that the termination action is being initiated by the Orange County Power Authority, rather than by the employee. In general, employees who are discharged by OCPA are not eligible for rehire. However, employees who are terminated due to layoff or restructuring may be eligible for rehire or recall at OCPA's discretion.

An employee may be separated for disciplinary reasons pursuant to the policy and procedures for dismissal in Section 1101 Causes for Discipline.

Any employee separated because of an inability to accommodate after the reasonable accommodation and interactive process is concluded will be given a written pre-separation notice of the reasons for the separation, the evidence supporting the decision to separate for non-disciplinary reasons, and an opportunity to respond before the separation takes effect.

### **1001.8 Payment of Final Wages**

Final wages for time worked, plus any pay for eligible unused but accrued PTO (see Section 901.4), will be paid in the employee's final paycheck, due to the employee on their last day of work if involuntarily separated or within 72 hours of their last day of work if resigned.

### **1001.9 Return of OCPA Property**

All OCPA property in the employee's possession must be returned prior to termination of employment, including keys, key fobs, identification cards, computer equipment, credit cards, cell phones, and any other OCPA equipment.

### **1001.10 Exit Interviews**

Should an employee resign voluntarily, the Chief Executive Officer, or their designee, may conduct an exit interview whenever feasible. This interview allows the departing employee to communicate views on their work with OCPA and the job requirements, operations and training needs.



**1001.11 Job References/Verification of Employment**

All reference inquiries and verifications of employment must be referred to and approved by the Chief Executive Officer or their designee. Unless the Chief Executive Officer receives a written waiver signed by the employee, OCPA will release only the employee's dates of employment and last position held., and status of rehire eligibility. In addition, and in accordance with California State Law AB2770, OCPA Authority will disclose if an employee or past employee is not eligible for rehire due to a determination that the employee had engaged in sexual harassment.

Employee authorization is required before releasing salary information to financial institutions. It is our policy that only the Chief Executive Officer, or their designee, is authorized to respond to requests for employee references and verification of employment from financial institutions, etc.

No other supervisor or employee is authorized to provide references for current or former employees. If such a request is received, the information request should be forwarded to a supervisor or the Chief Executive Officer's designee.



## **1100 DISCIPLINE**

OCPA expects each employee to demonstrate integrity and contribute to the quality and reliability of OCPA's services within the scope of their job responsibilities. Not only will this promote efficiency and productivity, but it will also create a pleasant and cooperative work environment. The statement of unacceptable conduct contained in Section 801 does not alter OCPA's policy that all positions are at-will. Employees and the Orange County Power Authority each remain free to terminate the employment relationship at any time, with or without reason or advance notice.

### **1101 Causes for Discipline**

Employees are expected to conduct themselves with reasonable and proper regard for the welfare and rights of all employees, for the best interests of the organization, and to perform their duties competently. Any employee who fails to adhere to OCPA's Professional Business Conduct and Ethics as outlined in Section 801, or whose performance is unsatisfactory, may be subject to discipline, up to and including termination.

#### ***1101.1 Progressive Discipline***

At all times, OCPA expects employees to perform to the best of their abilities and to conduct themselves appropriately. If an employee performs at an unsatisfactory level, violates a policy, or commits inappropriate acts, he or she will be subject to discipline.

Because all employees at the Orange County Power Authority are at-will employees, the employee or OCPA may terminate the employment relationship at any time, with or without cause, and with or without notice. However, OCPA, at its discretion, may also administer a progressive discipline system. Progressive discipline is not mandatory, and OCPA reserves the right to deviate from any order or form of progressive discipline. Progressive discipline is also inapplicable to staff reductions and layoffs.

### **1102 Problem Resolution and Complaint Procedure**

At some time, employees may have a concern or question about the job, working conditions, or the treatment they may have received. Good-faith complaints and questions are of concern to OCPA and will be addressed to the extent practicable.

Employees are asked to take concerns first to their immediate supervisor, and then to the Chief Executive Officer or their designee, if the supervisor is unable to resolve the conflict.

This procedure, which OCPA believes is mutually beneficial, cannot result in every problem being resolved to the satisfaction of the complainant. However, employee input is valued and all employees should feel free to raise issues of concern, in good faith, without the fear of retaliation.



## 1200 MISCELLANEOUS POLICIES

### 1201 Personnel Files

#### **1201.1 Confidential Personnel Files**

OCPA maintains a personnel file for each employee. Files are kept for at least three years after separation of employment. A personnel file will contain only material that OCPA deems necessary and relevant or that is required by law. Personnel files are the property of OCPA, and access to the information they contain is restricted to protect employee privacy interests.

#### **1201.2 Notification of Changes**

Each employee is responsible to promptly notify OCPA of any changes in their contact and benefits information, including: mailing address; telephone number; persons to contact in an emergency; and number and names of dependents.

#### **1201.3 Access to Applicant or Employee Medical Information**

All medical information about an employee or applicant is kept in separate medical files and is treated as confidential. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for Authority business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

#### **1201.4 Employee Access to Personnel File**

**Inspection of File:** A current employee may inspect their own personnel file at reasonable times and at reasonable intervals, within 30 days of a written request. A former employee is entitled to inspect their personnel records one time per year. A current or former employee and/or their representative who wishes to review their personnel file should make a written request to the Chief Executive Officer. The inspection must occur in the presence of the Chief Executive Officer or their designee and: (1) at a location where the employee works and at a time other than the employee's work time; or (2) at another agreed upon location without loss of compensation to the employee.

**Copies:** A current or former employee is entitled to receive a copy of their personnel records within 30 days after the employer receives a written request. A current or former employee who wishes to receive such a copy should contact the Chief Executive Officer in writing. OCPA may charge a fee for the actual cost of copying.

**Representative's Inspection:** If the current or former employee wishes to have another person/representative inspect their personnel file, he or she must provide the person/representative with written authorization. The Chief Executive Officer will notify the employee and/or representative of the date, time, and place of the inspection in writing.

**No Removal of File Documents:** No person inspecting a personnel file is permitted to add or remove any document or other item to/from the personnel file.



### ***1201.5 Limitations on Access or Copying of Personnel File***

Prior to making a copy of personnel records or allowing inspection, OCPA may redact the names of nonsupervisory employees. Under no circumstances will OCPA provide access or copying of the following categories of personnel file documents: records relating to the investigation of a possible criminal offense; letters of reference; ratings, reports, or records that were obtained prior to employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination.

## **1202 Limitations on Outside Employment**

### ***1202.1 Outside Employment Restrictions***

Employees are permitted to engage in outside employment subject to the following restrictions:

- a) Any outside employment is secondary to the OCPA employment and shall not interfere with proper performance of OCPA employment. Employees are to report to work on time and ready to work. Outside employment will not be considered an excuse for poor job performance, absenteeism, tardiness, leaving early, refusal to travel, or refusal to work overtime or different hours. If outside employment causes or contributes to job related problems at OCPA, then the employee will be asked to discontinue outside employment and may be subject to disciplinary action, up to and including termination.
- b) Employees shall not be permitted to use OCPA paid time off to perform work for another employer.
- c) Employees shall not accept pay or other compensation from anyone for work done during time for which he or she is reimbursed by the OCPA.
- d) Employees are prohibited from working for any contractor or company that has a contract with the OCPA, during the period of contracted services for the OCPA.
- e) Employees shall not solicit or conduct outside employment during work time or that requires the use of OCPA equipment, facilities, confidential information or materials.

## **1203 Limitations on Political Activity**

### ***1203.1 No Targeted Solicitation of OCPA Officers or Employees***

Members of the Board and employees of OCPA may not directly or indirectly solicit political contributions from other employees or Board members unless the solicitation is part of a solicitation made to a significant segment of the public which may incidentally include members of the Board and employees of OCPA.

### ***1203.2 No Political Activity on OCPA Property or During Work Hours***

OCPA employees and officials are prohibited from engaging in political activity during working hours or on OCPA property.

## **1204 Prohibitions on Drugs and Alcohol in the Workplace**

### ***1204.1 Purpose and Scope***

The purpose of this Policy is to promote a drug and alcohol-free workplace and to eliminate drug and alcohol-related inefficiencies and risks. This Policy applies to all OCPA employees, whether they are on OCPA property, or they are performing OCPA-related business elsewhere, except as this Policy is superseded by federally mandated drug and alcohol policies. Compliance with



this Policy is a condition of employment. Disciplinary action will be taken against those who violate this Policy.

#### **1204.2 Drug- and Alcohol-Free Awareness Program**

OCPA's employee assistance provider offers counseling and treatment of drug- or alcohol-related problems. The employee assistance provider has information about: (a) the dangers of drug or alcohol abuse in the workplace; (b) the penalties that may be imposed for drug or alcohol abuse violations; (c) OCPA's Policy of maintaining a drug- and alcohol-free workplace; and (d) any available drug or alcohol counseling, rehabilitation or employee assistance programs.

#### **1204.3 Prohibited Conduct**

The following are prohibited conduct:

- (a) The manufacture, distribution, sale, dispensation, possession, or use of any controlled substance, narcotic (including marijuana), or prescription drug that has not been lawfully prescribed to the employee in either OCPA workplaces or wherever OCPA business is performed.
- (b) Working or being subject to call in if impaired by alcohol or any controlled substance, narcotic (including marijuana), or prescription drug that has not been lawfully prescribed to the employee.
- (c) An employee's failure to notify their department head before beginning work when taking medications or drugs, including but not limited to: prescription drugs, over the counter medications, marijuana, or illegal drugs or narcotics which could interfere with the safe and effective performance of duties.
- (d) An employee's failure to notify the Chief Executive Officer or their designee of any criminal conviction for a drug violation that occurred in the workplace within five days after such conviction.
- (e) An employee's criminal conviction for a drug violation that occurred in the workplace.

### **1205 Use of OCPA Equipment or Resources**

#### **1205.1 Policy and Applicability**

OCPA equipment and resources may only be used to conduct OCPA business, except for incidental personal use that is consistent with this Policy. As a result, OCPA equipment and resources are non-public forums. Every employee is required to adhere to this Policy.

#### **1205.2 Authority Equipment or Resources**

OCPA equipment or resources means any OCPA-owned or supplied item or resource, including, but not limited to: intellectual property (e.g., photographs, plans, drawings, formulas, customer lists, designs, formulas), vehicles, telephones, cell phones, pagers, tools, machines, supplies, copy machines, facsimile machines, desks, office equipment, computers (including hardware and software), file cabinets, lockers, Wi-Fi, internet, intranet, OCPA's network, data systems, routers, voice mail, servers, and email or voice mail communications stored in or transmitted through OCPA electronic resources or equipment.



**1205.3 No Expectation of Privacy**

OCPA periodically and without prior notice, monitors, reviews, accesses, or retrieves data from its equipment or resources, including electronic communications and content contained in or transmitted through its networks or electronic resources. Employees must provide OCPA with their usernames or passwords for any OCPA-issued equipment or resource. The existence of passwords or the attempted deletion of electronic files by an employee does not restrict OCPA's access. As a result, employees should have no expectation of privacy in their use of any OCPA equipment or resources.

**1205.4 Appropriate Use Only – No Misuse**

Employees may only use OCPA equipment or resources in compliance with this Policy. Employees are expected to avoid any use or communication which is unrelated to OCPA business, or that is destructive, wasteful, or illegal. OCPA has discretion to restrict or rescind employee access to OCPA equipment or resources. The following are examples of misuse of equipment or resources:

- (a) Any use that violates applicable law and/or OCPA policies, rules or procedures;
- (b) Exposing others to material which is offensive, harassing, obscene or in poor taste. This includes information which could create an intimidating, offensive or hostile work environment;
- (c) Any use that may create or further a hostile attitude or give offense on the basis of race, color, religion, sex, gender, gender expression, gender identity, national origin, ancestry, citizenship, age, marital status, physical or mental disability, medical condition, genetic information, sexual orientation, veteran status or any other basis protected by law;
- (d) Communication of confidential information to unauthorized individuals within or outside of OCPA;
- (e) Unauthorized attempts to access or use OCPA data or break into any OCPA or non-OCPA system using OCPA-owned equipment;
- (f) Theft or unauthorized transmission or copying of paper or electronic files or data;
- (g) Initiating or sustaining chain/spam letters, e-mail or other unauthorized mass communication;
- (h) Misrepresentation of one's identity for improper or illegal purposes;
- (i) Personal commercial or business activities (e.g., "for sale" notices, personal ads, etc.);
- (j) Transmitting/accessing obscene material and/or pornography;
- (k) E-Commerce;
- (l) Online gambling;
- (m) Installing or downloading unauthorized software or equipment;





- (n) Violating terms of software licensing agreements; and
- (o) Using OCPA equipment or resources to access and/or use dating web resources, personal social media, or games of any type.
- (p) Any unauthorized access to OCPA equipment or resources, including using keys or key cards, using or disclosing the username or password of another person or employee to gain access to their email or other electronic resources, or making OCPA equipment or resources available to others who would otherwise have no authorized access.
- (q) Using OCPA equipment or resources to speak on OCPA's behalf without authorization.

**1205.5 Authority Email Address Must be Used for Authority Business**

OCPA's email system is an official communication tool for Authority business. OCPA establishes and assigns official email addresses to each employee as OCPA deems necessary. Employees must send all OCPA communications that are sent via email to and from their official Authority email address. Employees are prohibited from using their private email address (e.g., Gmail, Yahoo, MSN/Hotmail, etc.) when communicating OCPA business via email. Should an email related to OCPA business be sent to an employee's personal email account, the email should be immediately forwarded to the employee's OCPA email account and responded to accordingly.

**1205.6 Incidental Use of OCPA Communications Equipment Permitted**

Employees may use OCPA telephones, cell phones, internet access, and e-mail for incidental personal communications provided that the use:

- (a) Is kept to a minimum and limited to break times or non-working hours;
- (b) Does not interfere or conflict with OCPA operations or the work performance of any Authority employees;
- (c) Allows the employee to more efficiently perform OCPA work;
- (d) Is not abusive, illegal, inappropriate, or prohibited by this Policy (for example, no social media use, no electronic dating, no gaming); and
- (e) Clearly indicates it is for personal use and does not indicate or imply OCPA sponsorship or endorsement.

**1206 Policy Against Violence in the Workplace – Zero Tolerance Policy**

OCPA recognizes that workplace violence is a concern among employers and employees across the country. OCPA is committed to providing a safe, violence-free workplace. In this regard, OCPA strictly prohibits employees, consultants, customers, visitors, or anyone else on OCPA premises or engaging in OCPA-related activity from behaving in a violent or threatening manner. Moreover, OCPA seeks to prevent workplace violence before it begins and reserves the right to address certain behaviors, even in the absence of violent behavior.



OCPA believes that prevention of workplace violence begins with recognition and awareness of potential early warning signs and has established procedures for responding to any situation that presents the possibility of violence.

Workplace violence is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the worksite, ranging from threats and verbal abuse to physical assaults and even homicide, that can affect and involve employees, clients, customers and visitors. If any employee observes or becomes aware of any of any workplace violence related actions or behavior by an employee, customer, consultant, visitor, or anyone else, he or she should notify the Chief Executive Officer or their designee immediately. Further, employees should notify the Chief Executive Officer or their designee if any restraining order is in effect, or if a potentially violent non-work-related situation exists that could result in violence in the workplace.

All reports of workplace violence will be taken seriously and will be investigated promptly and thoroughly. In appropriate circumstances, OCPA will inform the reporting individual of the results of the investigation. To the extent possible, OCPA will maintain the confidentiality of the reporting employee and of the investigation. OCPA may, however, need to disclose results in appropriate circumstances, for example, in order to protect individual safety. OCPA will not tolerate retaliation against any employee who reports workplace violence.

If OCPA determines that workplace violence in violation of this policy has occurred, then OCPA will take appropriate corrective action and will impose discipline on offending employees. The appropriate discipline will depend on the particular facts but may include written or oral warnings, probation, reassignment of responsibilities, suspension, or termination. If the violent behavior is that of a non-employee, OCPA will take appropriate corrective action in an attempt to ensure that such behavior is not repeated.

## **1207 Appearance Standards**

### ***1207.1 Basis for Standards***

Appearance standards are highly personal and implicate a variety of laws and constitutional standards. OCPA recognizes a relationship between the type of work performed, workplace safety, level of public contact and personal expression, and seeks to strike a reasonable balance.

These appearance standards are designed to promote OCPA's legitimate and non-discriminatory goals to promote workplace safety and a professional image that is consistent with the employee's job duties and level of public contact.

### ***1207.2 Dress Code***

Employees are required to dress appropriately for the jobs they are performing, and clothing should be neat and clean in appearance. Clothing should be free of slogans, pictures, or words that may be offensive or inappropriate.

Visible tattoos may not contain offensive or inappropriate images, words, or other matter and must be free from images or words that are obscene, sexually explicit or offensive, discriminatory as to sex, race, religion, national origin, extremist, and/or gang-related.



## Receipt and Acknowledgement of Policies

The Orange County Power Authority requires that each employee sign a statement of receipt acknowledging that he or she has received a copy, or has been provided access to these Policies.

Your signature below acknowledges you have received a copy, or have been given access to the Orange County Power Authority's Policies. It also acknowledges your understanding that you are responsible for reading and becoming familiar with the contents of these Policies and any subsequent revisions to these Policies.

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I understand and agree that it is my responsibility to read and familiarize myself with the Policies and procedures contained in this document.

I further understand that my employment is at-will, and neither OCPA nor I have entered into a contract regarding the duration of my employment. I am free to terminate my employment with OCPA at any time, with or without cause. Likewise, OCPA has the right to terminate my employment with or without cause, at the discretion of OCPA. No employee of OCPA can enter into an employment contract for a specified period of time or make any agreement contrary to this Policy without the written approval from the Chief Executive Officer.

I acknowledge that OCPA reserves the right to revise, modify, delete or add to any and all policies, procedures, work rules or benefits stated in this document or in any other document, except for the Policy of At-will Employment. I further understand that any written changes to these Personnel Policies will be distributed to all employees so that I will be aware of any new policies or procedures. I understand that no oral statements or representations can in any way change or alter the provisions of this document.

I further acknowledge receipt of OCPA's anti-harassment and discrimination policy set forth in these Policies, and I certify that I have read it, understand it, and agree to comply with its terms and conditions.

I understand that any violation of the policy may result in serious disciplinary action, including immediate termination.

Employee's Printed Name: \_\_\_\_\_ Position: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_





## Attachment 2 – Proposed OCPA Benefits Program

Displayed below is OCPA’s proposed benefits program based on the comparison agency contribution amounts for each of the benefits categories.

### *Proposed OCPA Benefits Program*

Benefit Category	OCPA – Proposed Benefits Plan
<b>Retirement Benefits</b>	401(a) defined contribution plan mandatory 10% employer contribution. Replaces 6.2% contribution to Social Security. Fully vested from date of hire.  457(b) deferred compensation plan employee option. Employer match up to 4%.
<b>Health Insurance (medical, dental, vision)</b>	95% health insurance premium (Kaiser HMO 15 Plan + Dental HMO + VSP Option 5) for all employees and dependents.  Employees who select a higher cost health insurance option (either PPO or other HMO) cover the cost difference.
<b>Opt-out cash payment in lieu of health insurance</b>	\$500 per month
<b>Flexible Spending Account (FSA)</b>	Available – employee funded by payroll deduction.  Employer contributes \$200 per month for C-level executives. Employee may contribute additional funds to the IRS FSA Health or Dependent Care cap.
<b>Paid Time Off (PTO)</b>	Year 1: 180 hours per year Year 2+: increases an additional 8 hours per year, up to 10 years of employment
<b>PTO Cash-out Option</b>	Annual election to cash out up to 50% of annual accrued PTO hours
<b>Maximum PTO Accrual</b>	Twice the annual accrual
<b>Paid Holidays per year</b>	12 holidays
<b>Holiday Closure</b>	The week of Christmas Day through New Year’s Day (four or five days)
<b>Life Insurance</b>	Employer-paid basic group term policy, not to exceed \$200,000 coverage
<b>Short-term Disability</b>	Employee-only contribution to California SDI program
<b>Long-term Disability</b>	Employer subsidized: 60% pay replacement to max of \$12,000/month
<b>Wellness Reimbursement</b>	Up to \$1,000/year for qualified health and wellness expenses
<b>Executive Leave</b>	80 hours annually for C-level executives
<b>Technology Stipend</b>	\$100 per month for all FLSA-exempt employees
<b>Auto Stipend</b>	\$500 per month for C-level executives
<b>Employee Assistance Program (EAP)</b>	Employer-paid confidential counseling and work/life services assistance for employees and eligible dependents
<b>Tuition Reimbursement Program</b>	None proposed, since professional development and work-related equipment are part of ordinary budgeted business expenses