

## AGENDA

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

**Wednesday, May 17, 2023  
10:00 a.m.**

This meeting will proceed as an in-person meeting at the **Travelers Building, 3333 Michelson Dr., Irvine, CA 92612 in the Palm Room**. In addition, as a convenience to the public, the Orange County Power Authority is also providing an option for members of the public to remotely view and participate in the meeting. Further details are below. Please note that, in the event of a technical issue causing a disruption in the remote participation option, the meeting may continue unless otherwise required by law.

**Note:** Any member of the public may provide comments to the Orange County Power Authority Board of Directors on any agenda items (including closed session items) by requesting to speak during Item 4, or on any matter not appearing on the agenda but within the jurisdiction of the Board by requesting to speak during Item 5. 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:

To provide comments during the meeting, in-person attendees, please fill out the public speaker slip and provide it to the clerk at the beginning of the meeting. Before Items 4 and 5, the Chair or Clerk will ask members of the public to join the queue to provide public comment. The queue will remain open for a reasonable amount of time to allow members of the public sufficient time to request to speak and inform the Board of the number of speakers. After such time, the queue will be closed and the members of the public who have joined the queue to speak will be recognized at the appropriate time may speak. To join the queue on Zoom video conference by computer or mobile phone, use the “Raise Hand” feature. If joining the meeting using the Zoom dial-in number, you can raise your hand and join the queue by pressing \*9. Members of the public will not be shown on video but will be able to speak when called upon.

Comments shall generally be limited to three minutes when speaking, provided that the Chair may equally reduce each speaker’s time to accommodate a large number of speakers or a large number of agenda items. 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 WEBINAR

Please click the link below to join the webinar:

[Launch Meeting - Zoom](#)

Dial-in: 1-669-900-6833

Webinar ID: 890 6869 1190

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

4. **PUBLIC COMMENTS ON AGENDA ITEMS**

*Opportunity for members of the public to address the Board on any items on the agenda.*

5. **PUBLIC COMMENTS ON NON-AGENDA ITEMS**

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

6. **DIRECTOR ANNOUNCEMENTS**

*Board Members may briefly provide information to other members of the Board and the public, ask questions of staff, 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.*

7. **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. There is to be no other discussion or action taken unless authorized by law.*

8. **CLOSED SESSION**

1. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to Government Code § 54956.9(d)(2):  
One (1) potential case

9. **CONSENT CALENDAR**

*All items listed under the Consent Calendar are considered to be routine and may be enacted by one motion. Prior to the motion to consider any action by the Board of Directors, any public comments on any of the Consent Items will be heard. There will be no separate action unless members of the Board of Directors request specific items be removed from the Consent Calendar.*

1. **MINUTES FOR THE REGULAR BOARD MEETING OF APRIL 19, 2023**

**Recommended Action:**

Approve as submitted.

2. **APPROVE REVISED COMMUNITY ADVISORY COMMITTEE PURPOSE & SCOPE AND MEMBERSHIP CRITERIA**

**Recommended Action:**

Approve revised Committee Purpose & Scope and Membership Criteria.

**3. TREASURER’S REPORT – FISCAL YEAR ENDED MARCH 31, 2023 AND Q1 2023 CHECK REGISTER**

**Recommended Action:**

Receive and file.

**4. APPROVE OCPA POLICIES AND POLICY UPDATES**

**Recommended Action:**

1. Approve Amendments to Policy No. 5, Board of Directors’ Compensation and Expense Reimbursement Policy
2. Adopt Policy No. 23, Changes to Default Rate Product Policy

**5. PUBLIC RECORDS ACT REPORT**

**Recommended Action:**

Receive and file.

**6. CALIFORNIA ENERGY COMMISSION LOAD MANAGEMENT STANDARDS COMPLIANCE EXTENSION REQUEST**

**Recommended Action:**

Authorize OCPA staff to submit an extension request to the California Energy Commission to meet its Load Management Standards compliance obligations.

**7. CONSIDER FOURTH AMENDMENT TO JOINT POWERS AGREEMENT**

**Recommended Action:**

1. Review draft Fourth Amendment to Joint Powers Agreement removing weighted voting provisions and related exhibits.
2. Direct staff to provide Member Agencies with a copy of the proposed Fourth Amendment and place Fourth Amendment on a future agenda for final approval.

**10. 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. COMMUNITY ADVISORY COMMITTEE UPDATE**

**Recommended Action:**

Receive and file.

**2. APPOINT INTERIM CEO AND APPROVE EMPLOYMENT AGREEMENT; UPDATE CHECK SIGNATORIES**

**Recommended Action:**

1. Adopt resolution appointing Joseph Mosca as Interim Chief Executive Officer effective June 1, 2023 and approving execution of an Employment Agreement with Mr. Mosca in substantially the form attached hereto, with non-substantive revisions approved by the Chair and reviewed and approved as to form by the Interim General Counsel.
2. Adopt Resolution designating authorized representatives to sign checks and other disbursements.

**3. APPROVE BYLAWS AND THIRD AMENDMENT TO JOINT POWERS AGREEMENT AND APPOINT A SECRETARY**

**Recommended Action:**

1. Approve Bylaws and Third Amendment to Joint Powers Agreement.
2. Adopt Resolution Appointing Pat Jacquez-Nares as OCPA Secretary.

**4. MARKETING, COMMUNICATIONS, STRATEGY, PUBLIC ENGAGEMENT, DIGITAL AND GRAPHIC DESIGN CONTRACT**

**Recommended Action:**

1. Approve Contract with Reveille for Marketing, Communications, Strategy, Public Engagement, Digital, and Graphic Design
2. Authorize the Chief Executive Officer or delegated staff to negotiate, finalize, and execute contract for Marketing, Communications, Strategy, Public Engagement, Digital, and Graphic Design

**5. ENERGY EFFICIENCY PROGRAM UPDATE**

**Recommended Action:**

1. Receive program update
2. Approve Bright Future Grant Program Guidelines and authorize CEO to award and execute grant agreements Bright Future Grants

**6. DISCUSSION OF AN AMENDMENT TO THE JPA REQUIRING THE PUBLISHING OF OCPA'S CHECK REGISTER  
Requested by Vice Chair Kathleen Treseder**

**Recommended Action:**

Discuss an amendment to the JPA requiring the publishing of OCPA's check register.

## 11. **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. Public records, including agenda-related documents, can be requested electronically at [clerk@ocpower.org](mailto:clerk@ocpower.org) or by mail to 15642 Sand Canyon Avenue, P.O. Box 54283, Irvine, CA 92619-4283. The documents may also be posted at the above website. Such public records are also available for inspection, by appointment, at 3349 Michelson Drive, Suite 200, Irvine, CA 92612. Please contact [clerk@ocpower.org](mailto:clerk@ocpower.org) to arrange an appointment.

**ORANGE COUNTY POWER AUTHORITY**  
**Staff Report – Item 7**

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To: Orange County Power Authority Board of Directors

From: Brian Probolsky, Chief Executive Officer

Subject: CEO’S REPORT

Date: May 17, 2023

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**Orange County Power Authority Ongoing Net Energy Metering Enrollments**

The next Net Energy Metering (NEM) Enrollment phase will begin on June 1st. Two pre-enrollment notices and one Courtesy Letter have already been sent out to these customers. This phase includes nearly 3,200 NEM customers. NEM customers are being enrolled every other month based on their “true up” date with SCE. This allows customers to enjoy the full benefit of their NEM program. Orange County Power Authority (OCPA) will continue to enroll residential NEM customers through August 2023.

OCPA offers many benefits to NEM customers, such as a 10% increase above SCE’s Net Surplus Compensation (NSC) rate, a true up month in April, and monthly billing instead of annual. NEM customers are encouraged to visit <http://www.ocpower.org/nem> to learn more about the benefits OCPA offers to NEM customers.

**Rate Change Update**

The rate design of OCPA is dependent on Southern California Edison’s (SCE’s) generation rates and the Power Charge Indifference Adjustments (PCIA). Historically, SCE has adjusted its generation rates five to six times a year. So far this year SCE has updated its rates in January and March. In January 2023, SCE filed an Energy Resource Recovery Account (ERRA) Trigger application with the California Public Utilities Commission (CPUC). The application was required due to higher-than-expected power costs in December 2022. SCE requested permission to increase their bundled generation rates on June 1, 2023, if the ERRA Balancing Account continued to have a large under-collected balance by the end of April 2023. The CPUC granted permission to increase rates up to approximately 3.3%, which corresponds to a revenue requirement increase of around \$454 million. SCE is scheduled to update its power cost forecast when they file their advice letter on May 15, 2023, which will outline the rate change details set to take effect on June 1. Further information regarding the specifics of SCE’s rate changes will be provided in the June 2023 CEO’s report.

## **Improvement Plan Update**

A few updates on our progress toward addressing every recommendation made in audits or reports of OCPA (see [OCPA Improvement Plan - Orange County Power Authority \(ocpower.org\)](https://ocpower.org)).

Regarding the California State Auditor's audit of OCPA, OCPA is responsible for updating the State Auditor on its progress at 60-days, 6-months, and 1-year from the issuance of the audit. OCPA updated the State Auditor on its 60-days progress on April 28, 2023. OCPA has not received any comments back from the State Auditor on its submitted update but has been informed that its update is under review. The next update is due in August 2023.

OCPA has completed, as of the 60-days update, a third of all recommendations made by the State Auditor. By July, OCPA will have completed 94% of the recommendations and only one recommendation will be left to address, which is scheduled to be completed by December 2023.

Additionally, 50% of the 24 recommendations on the Improvement Plan have now been marked as completed. OCPA estimates that 95% of the recommendations will be completed by July, including the completion of recommendations from the County of Orange. The one recommendation left to be addressed is scheduled to be completed by December 2023.

OCPA is scheduled to meet with the Auditor for the County of Orange to convey its progress on the recommendations made by the County.

## **Request for Proposals**

A Request for Proposal (RFP) for Rate Strategy and Financial Planning and Analysis Services was posted on April 28, 2023. Companies are encouraged to submit proposals on BidNetDirect.com by May 31, 2023. It is expected that a recommendation will be made at the next Board Meeting on June 12, 2023. A new contract is anticipated to be executed by July 1, 2023.

An RFP for Online Marketplace Services for Residential Energy Efficient Products and Smart Home Devices was issued on May 5, 2023. OCPA is seeking a vendor that will create and manage a geo-targeted, Utility-branded online marketplace platform with a dedicated URL address, hosted by a service furnished and operated by Vendor to support OCPA objectives linked to overall program strategy of rebate processing, energy savings generation, and customer engagement. The deadline for proposals for this RFP is May 22, 2023.

## **Staffing Update**

OCPA has open recruitments for Chief Operating Officer, Power Resources Director, and Energy Contracts. Staff are currently reviewing applications for Human Resources Generalist and IT Specialist. Additional recruitments will be posted shortly, in accordance with the staffing plan approved in December 2022.



**MINUTES  
REGULAR MEETING  
BOARD OF DIRECTORS  
ORANGE COUNTY POWER AUTHORITY  
Wednesday, April 19, 2023**

**1. CALL TO ORDER**

Chair Jung called to order the Regular Meeting of the Orange County Power Authority Board of Directors at 10:05 a.m. on Wednesday, April 19, 2023.

**2. PLEDGE OF ALLEGIANCE**

Chair Jung led the Pledge of Allegiance.

**3. ROLL CALL**

Present:	Director Donald P. Wagner	County of Orange
	Director Jose T. Castañeda	City of Buena Park
	Director Tammy Kim	City of Irvine
	Vice Chair Kathleen Treseder	City of Irvine
	Chair Fred Jung	City of Fullerton
Absent:	Director Casey McKeon	City of Huntington Beach

**4. PUBLIC COMMENTS ON AGENDA ITEMS**

The following spoke in public comments regarding April 19, 2023, agenda items:

Linda Kraemer  
Jeremy Figueroa  
Ayn Craciun

Director Wagner refuted the allegation of corruption from Ayn Craciun.

Doug Elliott

**5. PUBLIC COMMENTS ON NON-AGENDA ITEMS**

The following spoke in public comments regarding April 19, 2023, non-agenda items:

Linda Kraemer



## **6. DIRECTOR ANNOUNCEMENTS**

Director Castañeda announced that on March 16-19 he attended the Civic Well Policymakers Conference for statewide leaders on sustainability and energy. At the March 28 Buena Park Council meeting, a presentation was received from Professor Dr. Mike Moodian on the OC Decathlon and requested that he come to present at a future Board meeting.

Director Castañeda requested the following items:

- Assign to the Community Advisory Committee to provide a recommendation to the Board on the first energy efficiency program.
- To have the Board discuss and identify an alternative energy storage policy or program with a potential partnership with universities such as UCI and Cal State Fullerton.

## **7. STAFF REPORT**

CEO Probolsky submitted a written report to the Board. He further reported that staff had completed an additional five items from the Improvement Plan, which brings the total number completed to over 50%. He introduced Patty Cruz, the new Energy Programs Analyst. CEO Probolsky reported that the new hire for the Power Resources Director rescinded his acceptance of the position due to the criticism from the press on OCPA. He stated that staff would continue to work with this director or continue the search to hire for this position.

## **8. CLOSED SESSION**

### Recess to Closed Session

At 10:32 a.m., Chair Jung called on Interim General Counsel Norvell to recess the Board to closed session. Interim General Counsel Norvell announced the Board was recessing to closed session. The following Board Members were present: Castañeda, Kim, Wagner, Treseder, and Jung; McKeon was absent. Also present was Board Counsel Norvell.

### **1. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE**

**Requested by Vice Chair Treseder**

Pursuant to Government Code Section §54957(b)(1)

### **2. PUBLIC EMPLOYEE APPOINTMENT**

**Requested by Vice Chair Treseder**

Pursuant to Government Code Section §54957(b)(1)

Title: Acting Chief Executive Officer

### **3. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

**Requested by Director Castaneda**

Pursuant to Government Code Section §54957(b)(1)

Title: Chief Executive Officer

### **4. PUBLIC EMPLOYEE APPOINTMENT**

Pursuant to Government Code Section §54957(b)(1)

Title: General Counsel

### Reconvene

At 12:39 p.m., the Regular Meeting of the Orange County Power Authority reconvened with the following present: Directors Castañeda, Kim, Wagner, Treseder, and Jung; McKeon was absent.

Interim General Counsel Norvell reported out of Closed Session that the Board met in Closed Session on Items 8.1 through 8.4 as listed on the agenda, action was taken as follows:

**Item 8.1:** Vice Chair Treseder made the motion, seconded by Director Castañeda to dismiss without cause Chief Executive Officer Probolsky effective May 30, 2023.

The motion carried by a 3-1-1 vote as follows:

Ayes: Vice Chair Treseder, Director Castañeda, Director Kim  
Noes: Director Wagner  
Abstain: Chair Jung  
Absent: Director McKeon

**Item 8.2:** Director Castañeda made the motion, seconded by Vice Chair Treseder to appoint an Acting Chief Executive Officer as of June 1, 2023. The Board has identified an internal candidate and will be subject to acceptance by that person.

The motion carried by a 3-1-1 vote as follows:

Ayes: Vice Chair Treseder, Director Castañeda, Director Kim  
Noes: Director Wagner  
Abstain: Chair Jung  
Absent: Director McKeon

**Items 8.3 and 8.4:** No reportable action taken by the Board.

Chair Jung thanked CEO Probolsky for getting the agency to where it was currently. He stated that Mr. Probolsky deserved much of the credit and further thanked him for stewarding that long. Chair Jung hoped that the action taken was not an exercise of futility.

## **9. CONSENT CALENDAR**

### **ACTION**

Director Castañeda made the motion, seconded by Director Wagner to:

Approve all consent calendar items.

The motion carried unanimously by the following vote:

Ayes: Chair Jung, Vice Chair Treseder, Director Wagner,  
Director Kim, Director Castañeda

Noes: None  
Absent: Director McKeon

**1. MINUTES FOR THE REGULAR BOARD MEETING OF MARCH 15, 2023**

**Action Taken:**  
Approved as submitted.

**2. LEGISLATIVE AND REGULATORY UPDATE**

**Action Taken:**  
Received and Filed.

**3. RISK OVERSIGHT COMMITTEE UPDATE**

**Action Taken:**  
Received and Filed.

**4. APPROVE ORANGE COUNTY POWER AUTHORITY'S POLICIES**

**Action Taken:**  
Approved the following Orange County Power Authority Policies:

- Policy Number 018: Investment Policy
- Policy Number 019: Reserve Policy
- Policy Number 020: Bad Debts and Delinquent Accounts Policy
- Policy Number 021: Rate Development Policy
- Policy Number 022: Member Information Sharing Policy

**5. APPROVE AMENDMENT NO. 1 WITH ORANGE COUNTY PRINTING COMPANY FOR PRINTING AND MAILING SERVICES**

**Action Taken:**  
Approved Amendment No. 1 with Orange County Printing Company for printing and mailing services.

Director Wagner left the meeting at 12:41 p.m.

**10. REGULAR CALENDAR**

**ITEM 10.2 WAS TAKEN OUT OF ORDER**

**2. RATIFY RATES EFFECTIVE APRIL 1, 2023**

Chief Financial Officer (CFO) Law provided the summary for the presentation on this item.

**Action Taken:**

Director Castañeda made the motion, seconded by Vice Chair Treseder to ratify the rates effective April 1, 2023.

The motion carried unanimously by the following vote:

Ayes: Chair Jung, Vice Chair Treseder, Director Kim, Director Castañeda

Noes: None

Absent: Director McKeon and Director Wagner

**1. DEVELOPMENT OF ANNUAL BOARD OF DIRECTORS GOAL SETTING WORKSHOP**

Director of Communications & External Affairs Mosca provided a summary of the presentation on this item.

Director Castañeda volunteered to work with staff and requested to have a location conducive to allow for nature integration.

**Action Taken:**

By Board consensus, the Board Workshop was set for June 16, 2023. Chair Jung appointed Vice Chair Treseder, Director Castañeda and himself to the ad hoc committee.

**3. APPROVE LONG-TERM RENEWABLE POWER PURCHASE AGREEMENT WITH GRACE ORCHARD ENERGY CENTER, LLC**

CEO Probolsky introduced Kirby Dusel, consultant from Pacific Energy Acquisitions and Glen Price, attorney from Best, Best & Krieger.

Mr. Dusel provided the summary for the presentation on this item.

Mr. Price also provided additional information on the credit requirements for the financing.

**Action Taken:**

Director Castañeda made the motion, seconded by Vice Chair Treseder to approve the Long-term Renewable Power Purchase Agreement with Grace Orchard Energy Center, LLC.

The motion carried unanimously by the following vote:

Ayes: Chair Jung, Vice Chair Treseder, Director Kim, Director Castañeda

Noes: None

Absent: Director McKeon and Director Wagner

## **ITEM 10.7 WAS TAKEN OUT OF ORDER**

### **7. COMMUNITY ADVISORY COMMITTEE UPDATE**

Director of Communications & External Affairs Mosca introduced Community Advisory Committee Chair Neal.

Chair Neal provided the Board with an update on their April 17, 2023, meeting.

Chair Jung thanked Chair Neal for his volunteerism and service in the Community Advisory Committee. He appreciated Mr. Neal and everyone serving on the Committee.

**Action Taken:**

Received and Filed.

### **4. FISCAL YEAR 2023/2024 BUDGET FRAMEWORK**

Chief Financial Officer Law provided a brief summary of the presentation for this item.

Chair Jung was happy that OCPA would be collaborating with other agencies on a benefit and compensation study. He further requested confirmation on whether the Agency can meet the 32% goal on the portfolio. Chair Jung also asked if the State's RA goal was reasonable. He further asked what the SCE comparable rate was to OCPA's 100% renewable energy.

CFO Law affirmed the attainment of the portfolio goal; the Board's approval of the NextEra Agreement helped this goal. She stated that CalCCA was helping the CCA's negotiate with the CPUC on that State's RA goal. CFO Law stated that SCE no longer offers 100% renewable to new customers; therefore, there is no comparable rate to OCPA currently.

Director Kim asked if there was a total cost for the 22 FTEs and their job descriptions.

CFO Law stated that staff would develop the cost information and the job descriptions and present them at the next budget meeting.

Director Castañeda was very excited about the opportunity to grow the team.

**Action Taken:**

Received and Filed.

## **5. CREATION OF BUDGET AD-HOC COMMITTEE FOR DEVELOPMENT OF FY2023/24 BUDGET**

CFO Law stated that staff was requesting the creation of a temporary Budget Ad-Hoc committee related to the development of the 2023/2024 budget and 5-year projection.

### **Action Taken:**

By Board consensus, Chair Jung appointed Directors Castañeda and Kim to a temporary ad-hoc advisory committee related to development of FY2023/24 Budget and 5-Year Projection.

## **6. WEIGHTED VOTING UNDER THE JOINT POWERS AGREEMENT**

Interim General Counsel Norvell provided a brief summary, the background, and the requirements to change the current weighted vote on the JPA.

A Board discussion ensued, on the options to keep or to remove the weighted voting from the JPA.

### **Action Taken:**

Director Kim made the motion, seconded by Vice Chair Treseder to remove the weighted voting under the OCPA Joint Powers Agreement.

The motion carried unanimously by the following vote:

Ayes: Chair Jung, Vice Chair Treseder, Director Kim, Director Castañeda  
Noes: None  
Absent: Director McKeon and Director Wagner

Interim General Counsel Norvell provided the procedures to make the necessary changes to the JPA.

Director Castañeda requested several items to be come to the Board at future meetings as follows:

- Invite the OC Decathlon to make a presentation to the Board.
- Have the CAC make recommendations to the Board on new energy programs.
- The potential of an alternative energy storage partnership with UCI and Cal State Fullerton.

Director Castañeda thanked Chair Jung for his leadership and CEO Probolsky for his service to the Agency.

Chair Treseder stated that today's meeting had challenging decisions that were made; she appreciated the Board Members thoughtfulness and praised Chair Jung's leadership throughout his tenure as Chair. She appreciated and thanked Mr. Probolsky for his service and efforts in creating the OCPA. Vice Chair Treseder stated her optimism toward OCPA and was committed to support that the City of Irvine remain with OCPA.

Director Kim thanked Chair Jung for his leadership, and she was committed to stay with OCPA. She thanked CEO Probolsky for his hard work and dedication throughout his challenging tenure at OCPA.

## **11. ADJOURNMENT**

There being no further business to come before the Board, Chair Jung adjourned the meeting at 1:37 p.m. The next OCPA Board of Directors Regular meeting will be on May 17, 2023.

**Submitted by:**

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**Brian S. Probolsky, Authority Secretary**



**ORANGE COUNTY POWER AUTHORITY**  
**Staff Report – Item 9.2**

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To: Orange County Power Authority Board of Directors

From: Joe Mosca, Director of Communications & External Affairs

Subject: APPROVE REVISED COMMITTEE PURPOSE & SCOPE AND  
MEMBERSHIP CRITERIA

Date: May 17, 2023

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**RECOMMENDED ACTION**

Approve revised Committee Purpose & Scope and Membership Criteria.

**DISCUSSION**

Staff have revised the CAC Purpose & Scope and Membership Criteria based on feedback from the previous CAC meeting. The CAC Purpose & Scope and Membership Criteria are approved by the Board of Directors. Staff is requesting the Board Approve the revised Committee Purpose & Scope and Membership Criteria.

**FISCAL IMPACT**

None

**ATTACHMENTS**

Attachment A – Draft Revised CAC Purpose & Scope  
Attachment B – Draft Revised CAC Membership Criteria

## Community Advisory Committee Purpose and Scope

The purpose of the Orange County Power Authority (~~Authority~~OCPA) Community Advisory Committee (CAC) is to advise the ~~Authority~~OCPA Board of Directors on the operation of its Community Choice ~~Energy Aggregation~~ program. This Scope will be adopted by the Board of Directors and may be updated or changed at the Board's discretion.

The Community Advisory Committee will, under the direction of the ~~Authority~~OCPA Board of Directors and authorized ~~Authority~~OCPA staff:

1. Elect officers (Chair, ~~and two (2) co-Vice Chairs, and Secretary~~) and define priorities and duties to ensure the Committee can operate independently and collaboratively, with limited support from ~~Authority~~OCPA staff, but in keeping with the priorities of the Board.
2. From time to time the Board may ask the CAC to work on defined objectives and produce materials or advice that will assist the Board in decision-making.
3. Help the Board to identify issues of concern and opportunities to educate community members about ~~the Authority~~OCPA.
4. Draft reports to the Board with findings and recommendations as may be needed.
5. Represent the views of the Committee constituencies in comments and recommendations.
6. Plan for and engage in community events and special projects, as appropriate.
7. Serve as an information-channel back to their colleagues and communities.
8. Other duties or tasks, as deemed appropriate by the CAC and Board, that meet the purpose of providing a venue for ongoing citizen support and engagement in the strategic direction, goals, and programs of ~~the Authority~~OCPA.

Orange County Power Authority  
Community Advisory Committee Membership Criteria

1. The Committee Advisory Committee (CAC) shall be made up of two members from each member agency and two at-large members. ~~ten (10) committee members.~~ Each Board Member shall appoint two members; but, no member agency shall have more than two members. This composition may be revisited by the Board if new member cities are added to the Orange County Power Authority (OCPA). ~~In addition to direct appointments, there~~ The will two at-large appointments shall be selected by the Board via an application process.
2. The CAC is a Brown Act Committee, and all meetings shall be ~~posted~~ noticed and held in public spaces;
3. ~~The~~ OCPA aims to ensure a wide variety of perspectives and participation on the CAC;
4. Members shall be residents (property owners and/or tenants), business owners, employees or representatives of a community-based organization and/or non-profit organization located within one of the member ~~cities~~ agencies of OCPA.
5. When reviewing applicants for membership, OCPA staff, and the Board of Directors are to prioritize residents, when feasible, from diverse social, economic, and racial backgrounds that are representatives of all residents within the service territory of OCPA;
6. There shall be two at-large members who shall be required to submit an application and the Board shall make the selection to the Committee.
7. ~~Applicants~~ CAC members must be committed to serving on the CAC and attending regular meetings along with the occasional OCPA Board meeting. CAC meetings and times will be determined once the members are approved by the full Board. The term for Members will ~~initially serve a~~ be one-year ~~term~~ and there will be a limit of two terms. ~~The one-year term will be the initial term period and could amended by the Board.~~
8. Meetings of the CAC could rotate throughout the OCPA service territory, if feasible. If technology permits, the meetings shall be broadcast on the local PEG channel run by each member jurisdiction and/or via an online platform.

**ORANGE COUNTY POWER AUTHORITY**  
**Staff Report – Item 9.3**

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To: Orange County Power Authority Board of Directors

From: Tiffany Law, Chief Financial Officer

Subject: TREASURER’S REPORT – FISCAL YEAR ENDED MARCH 31, 2023 AND  
Q1 2023 CHECK REGISTER

Date: May 17, 2023

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**RECOMMENDED ACTION**

Receive and file.

**BACKGROUND**

The Treasurer’s Report is the financial statement of the Orange County Power Authority and should be presented to the governing body periodically. The report is created in accordance with accounting principles generally accepted in the United States of America. The Treasurer’s Report comprises the statement of net position and the related statement of revenues, expenses, and changes in net position, and the statement of cash flows for the period ending March 31, 2023. To adhere to the adopted budget policy, the future Treasurer’s Reports will be presented to the Board of Directors in a quarterly format instead of monthly.

**FISCAL IMPACT**

There is no financial impact from approving the report.

**ATTACHMENT**

- A) Treasurer’s Report ending March 31, 2023
- B) Q1 2023 Check Register



## ACCOUNTANTS' COMPILATION REPORT

Management  
Orange County Power Authority

Management is responsible for the accompanying financial statements of Orange County Power Authority (a California Joint Powers Authority) which comprise the statement of net position as of March 31, 2023, and the related statement of revenues, expenses, and changes in net position, and the statement of cash flows for the period then ended in accordance with accounting principles generally accepted in the United States of America. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the accompanying statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, conclusion, nor provide any assurance on these financial statements.

Management has elected to omit substantially all of the note disclosures required by accounting principles generally accepted in the United States of America in these interim financial statements. Orange County Power Authority's annual audited financial statements include the note disclosures omitted from these interim statements. If the omitted disclosures were included in these financial statements, they might influence the user's conclusions about the Authority's financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to the Authority because we performed certain accounting services that impaired our independence.

*Maher Accountancy*

San Rafael, CA  
May 4, 2023

**ORANGE COUNTY POWER AUTHORITY**  
**STATEMENT OF NET POSITION**  
**As of March 31, 2023**

**ASSETS**

Current assets

Cash - unrestricted	\$ 13,494,047
Cash - restricted	6,000,000
Investments	147,918
Accounts receivable, net of allowance	19,405,114
Accrued revenue	15,196,074
Other receivables	4,023,921
Prepaid expenses	19,016
Deposits	1,358,660
Total current assets	<u>59,644,750</u>

**LIABILITIES**

Current liabilities

Accrued cost of electricity	26,909,479
Accounts payable	461,630
Other accrued liabilities	837,678
User taxes and energy surcharges due to other governments	1,124,886
Accrued interest and financing costs	58,825
Total current liabilities	<u>29,392,498</u>

Noncurrent liabilities

Loan payable	7,541,380
Accrued interest and financing costs	22,228
Total noncurrent liabilities	<u>7,563,608</u>
Total liabilities	<u>36,956,106</u>

**NET POSITION**

Unrestricted (deficit)	22,688,644
Total net position	<u><u>\$ 22,688,644</u></u>

**ORANGE COUNTY POWER AUTHORITY**  
**STATEMENT OF REVENUES, EXPENSES**  
**AND CHANGES IN NET POSITION**  
**Nine Months Ended March 31, 2023**

**OPERATING REVENUES**

Electricity sales, net	\$ 193,598,804
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**OPERATING EXPENSES**

Cost of electricity	164,960,562
Contract services	3,704,274
Staff compensation	1,382,510
Other operating expenses	508,970
Total operating expenses	170,556,316
Operating income (loss)	23,042,488

**NONOPERATING REVENUES (EXPENSES)**

Investment income	7,896
Interest and financing expense	(571,442)
Nonoperating revenues (expenses), net	(563,546)

**CHANGE IN NET POSITION**

	22,478,942
Net position at beginning of period	209,702
Net position at end of period	\$ 22,688,644

**ORANGE COUNTY POWER AUTHORITY**  
**STATEMENT OF CASH FLOWS**  
**Nine Months Ended March 31, 2023**

**CASH FLOWS FROM OPERATING ACTIVITIES**

Receipts from customers	\$ 186,717,706
Receipts from market settlements	38,677,650
Payments to suppliers for electricity	(202,831,304)
Payments for goods and services	(3,813,411)
Payments to employees for services	(1,303,105)
Payments of taxes and energy surcharges to other governments	(3,678,517)
Net cash provided (used) by operating activities	<u>13,769,019</u>

**CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES**

Proceeds from note payable	34,100,000
Payments of loan principal	(111,000)
Payments of note principal	(41,750,000)
Payments of interest and related expenses	(613,943)
Net cash provided (used) by non-capital financing activities	<u>(8,374,943)</u>

**CASH FLOWS FROM INVESTING ACTIVITIES**

Interest income received	7,564
Net cash provided (used) by investing activities	<u>7,564</u>

Net change in cash	5,401,640
Cash at beginning of period	14,092,407
Cash at end of period	<u>\$ 19,494,047</u>

**Reconciliation to the Statement of Net Position**

Cash (unrestricted)	\$ 13,494,047
Restricted cash	6,000,000
Cash	<u>\$ 19,494,047</u>



**ORANGE COUNTY POWER AUTHORITY**  
**STATEMENT OF CASH FLOWS (continued)**  
**Nine Months Ended March 31, 2023**

**RECONCILIATION OF OPERATING INCOME (LOSS) TO NET  
CASH PROVIDED (USED) BY OPERATING ACTIVITIES**

Operating income (loss)	\$ 23,042,488
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities	
Revenue adjusted for allowance for uncollectible accounts	2,450,618
(Increase) decrease in:	
Accounts receivable	(10,854,413)
Other receivables	(2,151,005)
Accrued revenue	(2,685,922)
Prepaid expenses	5,784,886
Deposits	(1,134,084)
Increase (decrease) in:	
Accrued cost of electricity	(1,691,688)
Accounts payable	(122,122)
Other accrued liabilities	600,159
User taxes and energy surcharges due to other governments	530,102
Net cash provided (used) by operating activities	<u><u>\$ 13,769,019</u></u>



## ACCOUNTANTS' COMPILATION REPORT

Board of Directors  
Orange County Power Authority

Management is responsible for the budgetary comparison schedule of Orange County Power Authority (OCPA), a California Joint Powers Authority, for the period ended March 31, 2023, and for determining that the budgetary basis of accounting is an acceptable financial reporting framework. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the accompanying statement nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any assurance on this special purpose budgetary comparison statement.

The special purpose statement is prepared in accordance with the budgetary basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. This report is intended for the information of the Board of Directors of OCPA.

Management has elected to omit substantially all of the note disclosures required by accounting principles generally accepted in the United States of America in these interim financial statements. OCPA's annual audited financial statements include the note disclosures omitted from these interim statements. If the omitted disclosures were included in these financial statements, they might influence the user's conclusions about the Authority's financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to OCPA because we performed certain accounting services that impaired our independence.

*Maher Accountancy*

San Rafael, CA  
May 4, 2023

**ORANGE COUNTY POWER AUTHORITY**  
**BUDGETARY COMPARISON REPORT**  
**Nine Months Ended March 31, 2023**

	YTD Actual	YTD Amended Budget	YTD Amended Budget Variance (Under) Over	YTD Actual as a Percent of Amended Budget	Annual Amended Budget	Annual Amended Budget Remaining
<b>OPERATING REVENUES</b>						
Electricity Sales, net	\$ 193,598,804	\$ 195,456,966	\$ (1,858,162)	99.0%	\$ 285,887,000	\$ (92,288,196)
<b>OPERATING EXPENSES</b>						
Cost of Energy	164,960,562	173,528,789	(8,568,227)	95.1%	234,366,000	(69,405,438)
Data Manager	814,581	818,368	(3,787)	99.5%	1,403,000	(588,419)
Utilities Service Fees	529,232	599,245	(70,013)	88.3%	690,000	(160,768)
Staffing Costs	1,382,510	1,695,520	(313,010)	81.5%	3,070,000	(1,687,490)
Contract Services	799,994	868,770	(68,776)	92.1%	1,287,000	(487,006)
Legal Services	720,148	644,634	75,514	111.7%	790,000	(69,852)
Marketing and Customer Enrollment	840,319	898,285	(57,966)	93.5%	1,241,000	(400,681)
Other G&A	508,970	503,859	5,111	101.0%	800,000	(291,030)
Energy Programs	-	229,744	(229,744)	0.0%	500,000	(500,000)
Total operating expenses	170,556,316	179,787,214	(9,230,898)		244,147,000	(73,590,684)
Operating income (loss)	23,042,488	15,669,752	7,372,736		41,740,000	(18,697,512)
<b>NONOPERATING REVENUES (EXPENSES)</b>						
Investment and miscellaneous income	7,896	7,972	(76)	N/A	8,000	(104)
Interest and financing expense	(571,442)	(531,647)	(39,795)	107.5%	(753,000)	181,558
Capital Outlay	-	-	-		(10,000)	10,000
Nonoperating revenues (expenses), net	(563,546)	(523,675)	(39,871)		(755,000)	191,454
<b>CHANGE IN NET POSITION</b>	\$ 22,478,942	\$ 15,146,077	\$ 7,332,865		\$ 40,985,000	\$ (18,506,058)

**ORANGE COUNTY POWER AUTHORITY**  
**BUDGETARY COMPARISON REPORT**  
**Nine Months Ended March 31, 2023**

Budget Item	Actual / Budget %	Comment
Electric Sales Revenue	99.0%	Year-to-date energy sales are slightly lower than forecast by approx. \$1.9M or 1.0%. Sales revenue includes revenues actually billed to customers as well as estimated customer usage during the reporting period that is not yet billed.
Cost of Energy	95.1%	The variance is primarily due to the timing difference between projected and actual delivery of Renewable Energy Certificates (RECs) and fluctuating market prices.
Service Fees - SCE	88.3%	These are SCE fees charged on a per customer basis.
Personnel	81.5%	Staffing expenses are under budget due to the timing delay of new hires.
Professional Services	92.1%	This category includes accounting, rates and financial & planning analysis, portfolio management, scheduling coordinator, HR and board clerk, and other consultants.
Legal Costs	111.7%	This category includes outside legal costs for general counsel, energy procurement transactional support, labor, clerk support, regulatory, and RA appeal services. Actual costs exceeded budget due to the ad-hoc labor related investigation costs and high volume of regulatory and compliance filing services.
Marketing and customer enrollment	93.5%	This category includes customer noticing, advertising and other customer communications.
Other General & Administrative	101.0%	This category includes occupancy costs, industry membership dues, general business insurance, and other general and administrative costs.
Interest and financing expenses	107.5%	This category includes interest and fees related to debt. Variance predominately due to the timing of loan draws and letters of credit posted for collateral for energy supply.

**ORANGE COUNTY POWER AUTHORITY**  
**SCHEDULE OF OUTSTANDING DEBT**  
As of March 31, 2023

**CITY OF IRVINE**

On January 2021, OCPA borrowed \$2,500,000 from the City of Irvine for working capital costs associated with OCPA's pre-launch. On September 2021, OCPA borrowed \$5,000,000 from the City of Irvine for cash collateral in the credit facility associated with OCPA's launch. The loan repayment date for the above is January 1, 2027. Interest is due on the loan in an amount based on the gross earnings for the respective quarter as reported in the City Treasurer's pooled investment portfolio report.

Also included as a loan payable are formation related costs - \$152,380 paid directly from the City to the vendors. OCPA will reimburse the City no later than January 1, 2027. Interest does not accrue on the formation costs advanced by the City. OCPA paid \$111,000 towards the outstanding principal on September 12, 2022.

<b>Principal</b>	<b>Maturity</b>	<b>Interest Rate</b>	<b>Payments</b>	<b>Outstanding Principal</b>
\$ 152,380	January 2027	0.00%	\$ -	\$ 41,380
		Variable - City Treasurer's report		
\$ 7,500,000	January 2027		\$ -	\$ 7,500,000

**MUFG UNION BANK, N.A. CREDIT FACILITY**

On September 2021, OCPA and MUFG Union Bank, N.A. entered into a Revolving Credit Agreement for a \$35 million credit facility. OCPA has outstanding borrowings of \$0 as of March 31, 2023.

MUFG, N.A. has also issued a \$2,611,948 Letter of Credit to Pacific Gas & Electric; a \$1,747,000 Letter of Credit to Southern California Edison Company; a \$3,500,000 Letter of Credit to Shell and a \$400,000 Letter of Credit to California ISO, and a \$2,597,157 Letter of Credit to Marsh Landing.

<b>Credit Facility</b>	<b>Letter of Credit</b>	<b>Borrowing</b>	<b>Unused Credit</b>
\$ 35,000,000	\$ 10,856,105	\$ -	\$ 24,143,895

**Orange County Power Authority**  
**PAYMENTS ISSUED JANUARY 1, 2023 THROUGH MARCH 31, 2023**

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Amount</u>
1/3/2023	3349 Michelson Drive Irvine LLC	January expenses	12,400.00
1/3/2023	Dell Marketing L.P.	Computer, two monitors,, two headsets, keyboard.	2,538.76
1/3/2023	MUFG Union Bank, N.A.	Bank Fee on SB Letter of Credit	3,912.96
1/3/2023	MUFG Union Bank, N.A.	Bank Fee on SB Letter of Credit	7,466.83
1/3/2023	MUFG Union Bank, N.A.	Bank Fee on SB Letter of Credit	13,416.67
1/3/2023	MUFG Union Bank, N.A.	Bank Fee on SB Letter of Credit	6,133.33
1/3/2023	MUFG Union Bank, N.A.	Bank Fee on SB Letter of Credit	10,012.47
1/3/2023	Orange County Printing Company	COURTESY LTRS FEB 2023 COURTESY LETTERS & ENVE	4,417.05
1/3/2023	Union Bank (Commercial Loan Pmt)	December 2022 interest expense	75,688.71
1/3/2023	Union Bank (Commercial Loan Pmt)	December 2022 interest expense	7,501.03
1/4/2023	The Energy Authority Inc. (Service Fees)	November Task Order 1: Operational Services - Scheduling Coordinator Fee	13,600.00
1/5/2023	N/A Employee Payroll	December 16 - December 31 -Salaries, Wages, Fringe Benefits	45,160.58
1/5/2023	N/A Employee Payroll	December 16 - December 31 - Payroll Taxes	14,242.41
1/5/2023	N/A Employee Payroll	December 16 - December 31 -Paychex Service Fee	187.50
1/10/2023	Lincoln Financial Group	1/10/23 Retirement debit 401A	13,300.68
1/10/2023	Lincoln Financial Group	1/10/23 Retirement debit 457B	5,070.82
1/11/2023	Igoe (Med-iBank)	Medical and/or Dependent Care FSA Monthly Participation Fee	1,316.45
1/17/2023	California ISO (Settlement Invoices) CAISO	Energy Settlement Payable from 12/21/22-12/28/22	110,628.17
1/17/2023	First Republic Bank	FRB Analysis Charge	117.51
1/17/2023	Union Bank	Union Bank Loan Payment	4,500,000.00
1/20/2023	N/A Employee Payroll	January 1 - January 15 -Paychex Service Fee	420.78
1/20/2023	N/A Employee Payroll	January 1 - January 15 - Payroll Taxes	13,599.47
1/20/2023	N/A Employee Payroll	January 1 - January 15 -Salaries, Wages, Fringe Benefits	48,601.59
1/20/2023	Powerex	January Energy Purchases	79,166.67
1/20/2023	Southern California Edison	December 2022 Capacity purchases	388,500.00
1/20/2023	Union Bank	Union Bank Loan Payment	4,500,000.00
1/23/2023	California Community Choice Association	CALCCA January-March 2023 membership dues	91,495.50
1/23/2023	Paychex	Payroll fees	444.75
1/25/2023	Lincoln Financial Group	1/25/23 Retirement debit 401A	13,802.18
1/25/2023	Lincoln Financial Group	1/25/23 Retirement debit 457B	5,281.23
1/25/2023	Morgan Stanley Capital Group	November energy purchases	5,882,569.50
1/25/2023	MUFG Union Bank, N.A.	Bank service fee	478.63
1/25/2023	Nextera Energy Marketing Llc	December energy purchases	2,709,989.45
1/25/2023	Shell Energy North America	November Energy Purchases	8,903,073.00
1/25/2023	Transalta Energy Marketing Us Inc.	December Energy Purchases	1,761,345.00
1/26/2023	California Department of Tax and Fee Administration	October - December 2022 Electric Energy Surcharge	169,115.00
1/26/2023	Union Bank (Credit Card)	Phan 55 - lunch meeting	50.86
1/26/2023	Union Bank (Credit Card)	Office Depot - office supplies	40.92
1/26/2023	Union Bank (Credit Card)	Ace Parking - parking expenses	13.50
1/26/2023	Union Bank (Credit Card)	Portos - lunch meeting with director	14.48
1/26/2023	Union Bank (Credit Card)	Office Depot - office supplies	53.86
1/26/2023	Union Bank (Credit Card)	Go to Connect - business account for call center	2,755.24
1/26/2023	Union Bank (Credit Card)	Perimeter81 - VPN service for CRM	60.20
1/26/2023	Union Bank (Credit Card)	Gracias Madre - lunch meeting with director	74.17
1/26/2023	Union Bank (Credit Card)	Amazon - office supplies	58.14
1/26/2023	Union Bank (Credit Card)	Amazon - office supplies	36.62
1/26/2023	Union Bank (Credit Card)	Marriott - parking for Irvine Chamber event	11.00
1/26/2023	Union Bank (Credit Card)	North Italia - new employee lunch	232.57
1/26/2023	Union Bank (Credit Card)	Smith.AI - answering service	220.00
1/26/2023	Union Bank (Credit Card)	Office Depot - office supplies	121.74
1/26/2023	Union Bank (Credit Card)	City of Irvine - refund of deposit	(150.00)
1/26/2023	Union Bank (Credit Card)	Interest charges	250.75
1/26/2023	Union Bank (Credit Card)	Seal Beach parking - parking charges	2.00
1/26/2023	Union Bank (Credit Card)	The Backyard - lunch meeting with director	58.40
1/26/2023	Union Bank (Credit Card)	Zoom.com - subscription	348.88
1/26/2023	Union Bank (Credit Card)	Checkr, Inc. - software expenses	126.98
1/26/2023	Union Bank (Credit Card)	Go to Connect - business account for call center	1,211.41
1/26/2023	Union Bank (Credit Card)	Office Depot - office supplies	6.13
1/26/2023	Union Bank (Credit Card)	Office Depot - office supplies	12.26
1/26/2023	Union Bank (Credit Card)	Perimeter81 - VPN service for CRM	52.60
1/26/2023	Union Bank (Credit Card)	Office Depot - office supplies	50.11
1/26/2023	Union Bank (Credit Card)	Smith.AI - answering service	220.00
1/26/2023	Union Bank (Credit Card)	OC Parking Civic Ctr. - parking charges	13.00
1/26/2023	Union Bank (Credit Card)	OC Parking Civic Ctr. - parking charges	12.00
1/26/2023	Union Bank (Credit Card)	Zoom.com - subscription	348.88
1/26/2023	Union Bank (Credit Card)	Paul Martins American - team building dinner	991.54
1/26/2023	Union Bank (Credit Card)	Office Depot - office supplies	53.86
1/30/2023	Baker Tilly US, LLP, formerly Management Partners Inc	December 2022 - Management Services	930.00
1/30/2023	Best Best & Krieger	November 2022 - Financial/Power Procurement	4,700.50

1/30/2023 Best Best & Krieger	November 2022 - Public Records Requests	12,310.00
1/30/2023 Best Best & Krieger	November 2022 - Labor and Employment	504.00
1/30/2023 Best Best & Krieger	November 2022 - Regulatory CPUC	7,141.65
1/30/2023 Best Best & Krieger	November 2022 - General Counsel	17,603.70
1/30/2023 Calpine Energy Solutions	November 2022 services	44,413.81
1/30/2023 CITY OF BUENA PARK - UUT	December Utility User Tax	65,072.84
1/30/2023 CITY OF HUNTINGON BEACH - UUT	December Utility User Tax	211,074.46
1/30/2023 CITY OF IRVINE - UUT	December Utility User Tax	81,411.40
1/30/2023 Davison Susan	December mileage and travel reimbursement	292.89
1/30/2023 Davison Susan	November mileage and travel reimbursement	600.00
1/30/2023 Dell Marketing L.P.	Two monitors, Base DS, Keyboard & Mouse and Webcam	771.68
1/30/2023 Golden Communications Inc	Sustaining Professional Services and Consulting Fees- December 2022	2,199.00
1/30/2023 Igoe (Med-iBank)	Medical and/or Dependent Care FSA Monthly Participation Fee	200.00
1/30/2023 Maher Accountancy	January 2023 - Treasurer and Accounting Services	18,000.00
1/30/2023 METHOD TECHNOLOGIES (INC)	Support Options - MS Suite and other software	1,908.35
1/30/2023 NewGen Strategies & Solutions, LLC	Financial & Economic Consulting services through December 31	11,620.00
1/30/2023 Orange County Printing Company	Post Enrollment Notice	849.04
1/30/2023 Orange County Printing Company	Post Enrollment Notice	777.74
1/30/2023 Orange County Printing Company	Post Enrollment Notice	573.75
1/30/2023 Orange County Printing Company	Post-Enrollment Post Enrollment Notice	1,223.93
1/30/2023 Orange County Printing Company	Holiday Card	733.78
1/30/2023 Orange County Printing Company	February Pre-Enrollment Notice	3,922.43
1/30/2023 Pacific Energy Advisors Inc.	December 2022 - Monthly Services	42,000.00
1/30/2023 Reveille Inc.	OCPA Professional Services through December 31, 2022	34,612.49
1/30/2023 SDRMA	February employee benefit charges	11,144.91
1/30/2023 Southern California Edison (Non-Energy)	Mass enrollment fee & monthly service fees September 2022	24,664.68
1/30/2023 Southern California Edison (Non-Energy)	SCE fees	202,004.03
1/30/2023 The Energy Authority Inc. (Service Fees)	December Task Order 1: Operational Services - Scheduling Coordinator Fee	13,600.00
1/30/2023 Tullett Prebon Americas Corp.	Broker Fees of RA Deal with AES Rendondo Beach B LLC	50,625.00
1/30/2023 Tullett Prebon Americas Corp.	Broker Fees of Calpine Energy Services LP	6,439.10
1/30/2023 Warner Andrea	December travel and office supplies reimbursement	107.40
1/30/2023 Zodiac Solutions, LLC	November 2022 Fees	6,675.00
1/30/2023 Zodiac Solutions, LLC	December 2022 Fees	5,625.00
1/31/2023 Igoe (Med-iBank)	Medical and/or Dependent Care FSA Monthly Participation Fee	100.00
2/1/2023 3349 Michelson Drive Irvine LLC	February expenses	12,400.00
2/1/2023 Union Bank (Commercial Loan Pmt)	January 2023 interest expense	66,571.86
2/3/2023 N/A Employee Payroll	January 16 - January 31 - Payroll Taxes	11,918.03
2/3/2023 N/A Employee Payroll	January 16 - January 31 -Paychex Service Fee	222.50
2/3/2023 N/A Employee Payroll	January 16 - January 31 -Salaries, Wages, Fringe Benefits	46,770.83
2/7/2023 Best Best & Krieger	December 2022 - General Counsel	16,695.00
2/7/2023 Best Best & Krieger	December 2022 - Regulatory - CPUC	20,623.50
2/7/2023 Best Best & Krieger	December 2022 - Public Records Requests	6,550.00
2/7/2023 Best Best & Krieger	December 2022 - Financial/Power Procurement	2,725.50
2/8/2023 Lincoln Financial Group	2/8/23 retirement fees debit	479.39
2/8/2023 Lincoln Financial Group	2/8/23 Retirement debit 401A	13,744.58
2/8/2023 Lincoln Financial Group	2/8/23 Retirement debit 457B	5,257.91
2/10/2023 Lincoln Financial Group	2/10/23 retirement fees debit	581.38
2/10/2023 METHOD TECHNOLOGIES (INC)	Support Options - MS Suite and other software	1,756.85
2/13/2023 California ISO (Settlement Invoices) CAISO	Energy Settlement Payable from 1/20/23-1/26/23	7,208.86
2/15/2023 First Republic Bank	FRB Analysis Charge	117.59
2/16/2023 3349 Michelson Drive Irvine LLC	Parking	100.00
2/16/2023 Dell Marketing L.P.	Monitor	293.51
2/17/2023 N/A Employee Payroll	February 1 - February 15 -Paychex Service Fee	354.45
2/17/2023 N/A Employee Payroll	February 1 - February 15 -Salaries, Wages, Fringe Benefits	47,905.04
2/17/2023 N/A Employee Payroll	February 1 - February 15 - Payroll Taxes	12,249.87
2/21/2023 AES	January 2023 capacity purchases	562,500.00
2/21/2023 California ISO (Settlement Invoices) CAISO	Energy Settlement Payable from 1/01/23-1/31/23	16,736.00
2/21/2023 Powerex	February Energy Purchases	79,166.67
2/21/2023 Southern California Edison	January 2022 Capacity purchases	176,029.80
2/22/2023 3349 Michelson Drive Irvine LLC	Parking	20.00
2/22/2023 Lincoln Financial Group	2/22/23 Retirement debit 401A	13,830.88
2/22/2023 Lincoln Financial Group	2/22/23 Retirement debit 457B	5,967.45
2/23/2023 Baker Tilly US, LLP, formerly Management Partners Inc	November 2022 - Management Services	1,090.00
2/23/2023 Balance Public Relations Inc.	Consulting and lobby services	13,500.00
2/23/2023 Calpine Energy Solutions	December 2022 services	192,281.16
2/23/2023 CITY OF BUENA PARK - UUT	January Utility User Tax	59,622.12
2/23/2023 CITY OF HUNTINGON BEACH - UUT	January Utility User Tax	211,475.63
2/23/2023 CITY OF IRVINE - UUT	January Utility User Tax	76,107.43
2/23/2023 Constellation Energy Generation, LLC	January energy purchases	7,247,106.00
2/23/2023 Golden Communications Inc	Sustaining Professional Services and Consulting Fees - January 2023	2,199.00
2/23/2023 Joe Mosca	Expense reimbursement	147.74
2/23/2023 Maher Accountancy	February 2023 - Treasurer and Accounting Services	18,000.00
2/23/2023 Morgan Stanley Capital Group	December energy purchases	6,717,883.20

2/23/2023	NewGen Strategies & Solutions, LLC	Financial & Economic Consulting services through January 31	6,242.50
2/23/2023	North Orange County Chamber	2023 Elected Officials Reception on February 10, 2023	1,500.00
2/23/2023	Orange County Printing Company	Post-Enrollment Notice	848.93
2/23/2023	Orange County Printing Company	Post-Enrollment Notice	1,005.10
2/23/2023	Orange County Printing Company	Post-Enrollment Notice	735.94
2/23/2023	Orange County Printing Company	Post-Enrollment Notice	12,084.00
2/23/2023	Orange County Printing Company	Post-Enrollment Notice	488.99
2/23/2023	Orange County Printing Company	Post-Enrollment Notice	3,765.19
2/23/2023	Orange County Printing Company	Post-Enrollment Notice	2,213.17
2/23/2023	Pisenti & Brinker LLP	Bill for audit ended June 30, 2022	20,144.00
2/23/2023	Reveille Inc.	OCPA Professional Services through January 31, 2022	30,706.25
2/23/2023	Reveille Inc.	Photoshoot	6,125.00
2/23/2023	SDRMA	March employee benefit charges	18,739.49
2/23/2023	Shell Energy North America	December Energy Purchases	9,262,525.45
2/23/2023	Sunrise Power Company LLC	January capacity purchase	1,906,250.00
2/23/2023	Transalta Energy Marketing Us Inc.	January Energy Purchases	1,543,358.70
2/24/2023	Dell Marketing L.P.	Video Conferencing Kit and Microphone	2,776.59
2/24/2023	Morgan Stanley Capital Group	January energy purchases	3,294,202.20
2/27/2023	California ISO (Settlement Invoices) CAISO	Energy Settlement Payable from 2/03/23-2/08/23	10,071.89
3/1/2023	3349 Michelson Drive Irvine LLC	March expenses	12,400.00
3/1/2023	Calpine Energy Solutions	January 2023 services	191,851.06
3/1/2023	City of Fullerton	Tree Lighting Silver Presenter Sponsor	3,000.00
3/1/2023	Igoe (Med-iBank)	Medical and/or Dependent Care FSA Monthly Participation Fee	100.00
3/1/2023	Union Bank (Commercial Loan Pmt)	February 2023 interest expense	38,757.92
3/3/2023	Dell Marketing L.P.	Dell Latitude 5530XCTO Base system - laptop	1,775.94
3/3/2023	N/A Employee Payroll	February 16 - February 28 -Paychex Service Fee	222.50
3/3/2023	N/A Employee Payroll	February 16 - February 28 - Payroll Taxes	12,223.74
3/3/2023	N/A Employee Payroll	February 16 - February 28 -Salaries, Wages, Fringe Benefits	46,501.32
3/6/2023	Baker Tilly US, LLP, formerly Management Partners Inc	January 2023 - Management Services	65.00
3/6/2023	Orange County Printing Company	Post-Enrollment Notice	738.51
3/6/2023	Orange County Printing Company	Post-Enrollment Notice	4,333.46
3/6/2023	Pacific Energy Advisors Inc.	January 2023 - Monthly Services	37,500.00
3/6/2023	The Energy Authority Inc. (Service Fees)	January Task Order 1: Operational Services - Scheduling Coordinator Fee	13,600.00
3/6/2023	Zodiac Solutions, LLC	January 2023 Fees	7,350.00
3/8/2023	Balance Public Relations Inc.	Consulting and lobby services	13,500.00
3/9/2023	Lincoln Financial Group	03/09/23 Retirement debit 401A	13,830.88
3/9/2023	Lincoln Financial Group	03/09/23 Retirement debit 457B	5,967.38
3/9/2023	Union Bank (Credit Card)	Zoom.com - subscription	348.88
3/9/2023	Union Bank (Credit Card)	Go to Connect - business account for call center	1,453.81
3/9/2023	Union Bank (Credit Card)	Southwest - flight to Sacramento	247.96
3/9/2023	Union Bank (Credit Card)	Chaupain Bakery - board meeting pastries	71.25
3/9/2023	Union Bank (Credit Card)	Smith.AI - answering service	220.00
3/9/2023	Union Bank (Credit Card)	Alaska Air - flight to San Francisco	246.80
3/9/2023	Union Bank (Credit Card)	Doodle.com - poll software for CAC and board use	83.40
3/9/2023	Union Bank (Credit Card)	Syllabusx - climate change preparedness conference	3,170.00
3/9/2023	Union Bank (Credit Card)	credit card fees	35.00
3/9/2023	Union Bank (Credit Card)	Checkr, Inc. - software expenses	54.99
3/10/2023	3349 Michelson Drive Irvine LLC	Parking	400.00
3/15/2023	METHOD TECHNOLOGIES (INC)	Support Options - MS Suite and other software	1,756.85
3/15/2023	NewGen Strategies & Solutions, LLC	Financial & Economic Consulting services through February 28	9,491.25
3/15/2023	Orange County Printing Company	Post-Enrollment Notice	3,935.28
3/15/2023	Orange County Printing Company	Post-Enrollment Notice	835.48
3/20/2023	AES	February 2023 capacity purchases	562,500.00
3/20/2023	Energy Development & Construction Corporation	January REC's purchases	24,732.00
3/20/2023	N/A Employee Payroll	March 1 - March 15 -Paychex Service Fee	362.35
3/20/2023	N/A Employee Payroll	March 1 - March 15 - Payroll Taxes	13,637.04
3/20/2023	N/A Employee Payroll	March 1 - March 15 -Salaries, Wages, Fringe Benefits	50,520.52
3/20/2023	Powerex	March Energy Purchases	79,166.67
3/20/2023	Southern California Edison	February 2023 Capacity purchases	176,029.80
3/21/2023	Baker Tilly US, LLP, formerly Management Partners Inc	February 2023 - Management Services	1,365.00
3/21/2023	Best Best & Krieger	January 2023 - County Withdrawal	13,873.50
3/21/2023	Best Best & Krieger	January 2023 - Public Records Request	15,987.50
3/21/2023	Best Best & Krieger	January 2023 - General Counsel	21,386.00
3/21/2023	Best Best & Krieger	January 2023 - Regulatory - CPUC	11,665.50
3/21/2023	Best Best & Krieger	January 2023 - Financial/Power Procurement	3,041.50
3/21/2023	Best Best & Krieger	February 2023 - Public Records Requests	4,817.50
3/21/2023	Best Best & Krieger	February 2023 - General Counsel	16,965.00
3/21/2023	Best Best & Krieger	February 2023 - County Withdrawal	158.00
3/21/2023	Best Best & Krieger	February 2023 - Financial/Power Procurement	1,027.00
3/21/2023	Best Best & Krieger	February 2023 - Regulatory	9,872.00
3/21/2023	Best Best & Krieger	January 2023 - Investigation	325.00
3/21/2023	Maher Accountancy	March 2023 - Treasurer and Accounting Services	18,000.00
3/21/2023	Orange County Printing Company	Post-Enrollment Notice	509.16



3/21/2023 Orange County Printing Company	Post-Enrollment Notice	725.59
3/21/2023 Reveille Inc.	OCA Professional Services through February 28, 2022	34,083.25
3/21/2023 Tullett Prebon Americas Corp.	Broker Fees of Shell Energy North America	700.00
3/22/2023 Lincoln Financial Group	03/22/23 Retirement debit 457B	6,160.13
3/22/2023 Lincoln Financial Group	03/22/23 Retirement debit 401A	14,342.64
3/22/2023 Pacific Energy Advisors Inc.	February 2023 - Monthly Services	37,500.00
3/23/2023 Calpine Energy Services L.P.	January Capacity Purchases	204,750.00
3/23/2023 Calpine Energy Services L.P.	February Capacity Purchases	204,750.00
3/23/2023 Constellation Energy Generation, LLC	February energy purchases	6,273,699.00
3/23/2023 Morgan Stanley Capital Group	February energy purchases	2,863,240.00
3/23/2023 Shell Energy North America	January Capacity Purchases	322,500.00
3/23/2023 Shell Energy North America	January Energy Purchases	5,785,833.60
3/23/2023 Sunrise Power Company LLC	February capacity purchase	1,906,250.00
3/23/2023 Transalta Energy Marketing Us Inc.	February Energy Purchases	1,391,362.20
3/27/2023 3349 Michelson Drive Irvine LLC	Parking	10.00
3/27/2023 MUFG Union Bank, N.A.	February 2023 Analysis deficit fees	674.52
3/28/2023 Union Bank	Union Bank Loan Payment	10,850,000.00
3/29/2023 Igoe (Med-iBank)	Medical and/or Dependent Care FSA Monthly Participation Fee	6.34
3/29/2023 Igoe (Med-iBank)	Medical and/or Dependent Care FSA Monthly Participation Fee	104.75
3/31/2023 Calpine Energy Solutions	February 2023 services	192,132.41
3/31/2023 CITY OF BUENA PARK - UUT	February Utility User Tax	73,287.30
3/31/2023 CITY OF HUNTINGON BEACH - UUT	February Utility User Tax	266,085.09
3/31/2023 CITY OF IRVINE - UUT	February Utility User Tax	94,182.79
3/31/2023 Davison Susan	March travel reimbursements	757.54
3/31/2023 Davison Susan	January expense reimbursement	261.58
3/31/2023 Davison Susan	February expense reimbursement	262.96
3/31/2023 Golden Communications Inc	Sustaining Professional Services and Consulting Fees - February 2023	2,949.00
3/31/2023 Joe Mosca	Expense reimbursement	224.54
3/31/2023 Karbone Inc.	Brokerage fees - Calpine Energy Services	75,000.00
3/31/2023 Littler Mendelson, PC	November 2022 legal services	18,714.00
3/31/2023 Littler Mendelson, PC	January legal services	6,555.00
3/31/2023 METHOD TECHNOLOGIES (INC)	Support Options - MS Suite and other software	1,774.35
3/31/2023 MUFG Union Bank, N.A.	Bank fees on SBLC	35.00
3/31/2023 MUFG Union Bank, N.A.	Bank fees on SBLC	367.50
3/31/2023 MUFG Union Bank, N.A.	Bank fees on SBLC	6,000.00
3/31/2023 MUFG Union Bank, N.A.	Bank fees on SBLC	6,000.00
3/31/2023 MUFG Union Bank, N.A.	Bank fees on SBLC	9,739.34
3/31/2023 MUFG Union Bank, N.A.	Bank fees on SBLC	9,794.80
3/31/2023 MUFG Union Bank, N.A.	Bank fees on SBLC	13,125.00
3/31/2023 North Orange County Chamber	Silver Sponsorship 2023	5,000.00
3/31/2023 Orange County Printing Company	Post-Enrollment Notice	824.40
3/31/2023 SDRMA	April employee benefit charges	13,682.09
3/31/2023 The Energy Authority Inc. (Service Fees)	February - Resource Management Monthly Fees	13,600.00

**ORANGE COUNTY POWER AUTHORITY**  
**Staff Report – Item 9.4**

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To: Orange County Power Authority Board of Directors

From: Brian Probolsky, Chief Executive Officer

Subject: APPROVE OCPA POLICIES AND POLICY UPDATES

Date: May 17, 2023

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**RECOMMENDED ACTION**

1. Approve Amendments to Policy No. 5, Board of Directors' Compensation and Expense Reimbursement Policy
2. Adopt Policy No. 23, Changes to Default Rate Product Policy

**BACKGROUND**

**Board of Directors' Compensation and Expense Reimbursement Policy**

On February 9, 2021, the Board of Directors adopted Policy No. 5, which governs the compensation and reimbursement of expenses for members of the Authority's Board of Directors. The Policy applies to both regular members of the Board and alternate members.

The proposed policy amendments would authorize per diem compensation for Directors' attendance at CalCCA's annual conference and also authorize alternate Directors to attend and receive expense reimbursements related to attendance at CalCCA's annual conference regardless of whether the primary Director is also attending the CalCCA conference.

**Changes to Default Rate Product Policy**

Each OCPA Member Agency has discretion to select the Default Rate Product for the customers within its respective jurisdiction. Prior to service launch, each Member Agency selected a Default Rate Product. Although OCPA's Joint Powers Agreement contemplates that each Member Agency may change its individual Default Rate Product, the Joint Powers Agreement does not specify a process, and changes in the Default Rate Product impact OCPA's fiscal, energy procurement, operational, and customer communication activities.

In order to allow OCPA to appropriately plan for these changes, the proposed policy provides that:

- A Member Agency must provide advance written notice to OCPA of a change to its Default Rate Product by January 1 of each year, with an implementation date of October, unless otherwise agreed by the Member Agency and OCPA.
- A Member Agency may change its Default Rate Product no more than one (1) time every two (2) years.

- OCPA will send a minimum of two (2) notifications to customers subject to a Member Agency's change to its Default Rate Product, with at least one (1) notice being sent prior to the change taking effect.
- OCPA will cover the cost of customer notices for a Member Agency's first change to its Default Rate Product, but Member Agencies will be required to reimburse OCPA for subsequent changes to the Default Rate Product.
- Customers who have taken an "Opt Action" (opt up, opt down, opt out) will not be subject to changes in the Default Rate Product.

## **FISCAL IMPACT**

The revenues and expenditures related to the default rate product changes made by the member agency will undergo modifications in the mid-year budget process, which takes place around March timeframe of the corresponding fiscal year.

The proposed amendment to the Board of Directors' Compensation and Expense Reimbursement Policy will not result in any fiscal impact, as the OCPA annual budget has adequate funding to accommodate the associated expenses.

## **ATTACHMENTS**

1. Policy No. 5, Board of Directors' Compensation and Expense Reimbursement Policy
2. Policy No. 23, Changes to Default Rate Product Policy

**ORANGE COUNTY POWER AUTHORITY**  
**Policy Number 005: Board of Directors' Compensation and**  
**Expense Reimbursement Policy**

This Policy governs compensation and reimbursement of expenses for members of the Authority's Board of Directors. The Policy applies to both regular members of the Board and alternate members.

**DIRECTORS' COMPENSATION**

Pursuant to this Policy adopted by the Board of Directors, the Authority is authorized to compensate Board members in the amount of \$212.50 for (1) attending each meeting of the Board of Directors, and (2) otherwise providing a day of service to the Authority. The Policy limits compensation to a specified maximum number of days per month. The Board of Directors may, from time to time, amend the Policy to change the amount of compensation and/or the maximum number of compensable days per month.

The following activities are compensable.

**Compensable Activities**

1. Meetings  
Each regular Director shall be entitled to compensation for attendance at (1) each meeting of the Board of Directors; (2) each meeting of a standing committee on which the Director serves; (3) each meeting of an ad hoc committee to which the Director has been duly appointed; (4) each meeting of any joint governmental board, committee, or association to which the Director has been appointed as the Authority's representative; and (5) attendance at CalCCA annual conferences. Each alternate Director shall be entitled to compensation for attendance at a meeting when, and only when, the alternate Director attends the meeting in place of the regular Director.
2. Required Training  
Each Director shall be entitled to compensation for attendance at the ethics training required by Government Code Section 53235 and the sexual harassment training and education required by Government Code Section 12950.1.
3. Other Activities  
The Chair of the Board of Directors and Chief Executive Officer may, on a case-by-case basis, authorize compensation of individual Directors for a day of service when participating in the following types of activities: (1) meetings with representatives of local, regional, state, or national government on issues affecting the Authority; (2) meetings, conferences, and seminars relating to the business and operation of community choice aggregation entities, (3) ceremonial events sponsored by the Authority; (4) ceremonial events sponsored by another organization; (5) meetings of agencies, nonprofit organizations, or service clubs where the Director makes a presentation on behalf of the Authority; and (6) meetings with Authority staff, including telephone conferences when physical attendance is impractical.
4. Considerations  
The Board Chair and the Chief Executive Officer shall approve compensation under Section 3 above only for activities that provides a benefit to the Authority. Benefits include, but are not necessarily limited to, the acquisition of information, education,

training, and skills that will further the Authority's mission and purpose. Other benefits include positive changes to federal and state statutes and regulations that govern the Authority, and maintenance of positive relations with the public and other governmental agencies.

### **Limitation**

In no event shall a Director receive compensation for more than one meeting or other activity on the same day. Directors may not be compensated for more than six meetings per month.

### **Non-Compensable Activities**

Notwithstanding the section above, Board members shall not receive compensation for the following activities: (1) attendance at meetings or events of nonprofit organizations or service clubs, except when the Board Chair and Chief Executive Officer has authorized the Director to make a presentation on behalf of the Authority as described above; (2) Authority sponsored employee events including, but not limited to, the annual employee holiday luncheon and retirement events; (3) parades, festivals, holiday events, or retirement dinners; (4) meetings, without Authority staff present, with existing or potential contractors, vendors, or consultants; (5) meetings of partisan political organizations; (6) meetings, tours, and similar events conducted at the request of the Board member; or (7) any activity not described above.

## **REIMBURSEMENT OF DIRECTORS' EXPENSES**

### **Approved Activities**

In accordance with the terms of this Policy, the Authority will reimburse Directors for certain expenses incurred in connection with the compensable activities described above in Directors Compensation; provided, however, that alternate Directors shall be authorized to attend CalCCA conferences and shall be eligible for reimbursement of associated expenses as set forth below, whether or not the alternate Director is attending the conference in place of the regular Director. The Authority will not reimburse Directors for any other expenses.

### **Reimbursable Expenses**

1. Transportation  
In travelling to and from events, Directors must use the most economical form of transportation that is reasonably consistent with the Director's travel and scheduling requirements.
2. Mileage for Personal Vehicles
  - a. The Authority will reimburse Directors for use of personal vehicles based on actual miles traveled at the then-current "standard mileage rate" adopted by the U.S. Internal Revenue Service for use in deducting the cost of operating an automobile for business purposes. The Authority will not reimburse Directors for any other personal vehicle expenses.
  - b. When calculating mileage traveled by a Director to attend an event, the Authority will use the lesser of (1) the distance from the administrative headquarters of the Director's member agency to the event, and (2) the actual distance traveled. Mileage reimbursements shall not exceed the cost of the lowest available airfare.
3. Other Transportation Expenses
  - a. When travel by personal vehicle is impractical, the Authority will reimburse

Directors for the actual cost of (1) regularly-scheduled travel by airplane, train, bus, or other commercial carrier, (2) rental cars, and (3) taxis and other comparably-priced for-hire vehicles. The Authority will also reimburse Directors for related necessary travel expenses such as baggage fees, toll charges, and parking fees. Directors must take advantage of any government or group rates offered by a transportation provider.

- b. Before deciding to travel by air, each Director must consider the total cost of alternatives, including the cost of ground transportation and any necessary lodging. Each Director should also consider alternative departure times, departure and arrival airports, dates, departure times, and stopovers to minimize airfare. Directors should request travel arrangements as early as possible to take advantage of lower airfares.
- c. Generally, the Authority will only reimburse Directors for air travel in coach class. When necessary based on a Director's physical needs and/or the need to conduct meaningful work during a flight, the Board Chair has the discretion to approve reimbursement of first-class air travel. For trips that will exceed 24 hours, Directors must use their personal cars to travel to and from the airport, and utilize long-term airport parking, rather than pay for a taxi or other transportation to and from the airport.

4. Lodging

- a. The Authority will reimburse Directors for actual and necessary lodging expenses incurred in attending a conference, seminar, or meeting. Directors must take advantage of any government rate or group rate for lodging whenever possible. If there is no government or group rate, the Authority will reimburse Directors for lodging up to the per diem rate used by the U.S. Internal Revenue Service as the maximum allowable deduction for business-related lodging expenses. The per diem rates are set by the General Service Administration ("GSA") for federal employees. The rates are set forth at [GSA.gov/per diem](https://www.gsa.gov/perdiem).
- b. Lodging in connection with an activity that lasts only one day is considered "necessary" when the travel time to and from the activity exceeds two hours.

5. Meals

The Authority will reimburse Directors for actual and necessary dining expenses incurred while attending (1) a conference, seminar, or meeting outside of the Authority, or (2) an Authority-related business meeting within the Authority. The Authority will reimburse Directors up to the applicable GSA per diem rate for each separate meal set forth at [GSA.gov/per diem](https://www.gsa.gov/perdiem).

6. Incidentals

The Authority will reimburse Directors for actual and necessary incidental expenses incurred while attending a conference, seminar, or meeting outside the Authority, up to the applicable GSA per diem rate set forth at [GSA.gov/per diem](https://www.gsa.gov/perdiem). Reimbursable expenses include tips given to drivers, porters, bellhops, baggage carriers, and hotel housekeepers.

7. Travel Arrangements

- a. Each Director must utilize Authority staff to arrange all travel, lodging, and event registrations. The Chief Executive Officer shall designate an Authority employee responsible for making these arrangements. The Chief Executive Officer shall designate a single travel agency for use in making all travel arrangements.

### **Expenses That Are Not Reimbursable**

The Authority will not reimburse Directors for the costs of: (1) barber and/or beauty shop services; (2) fines for traffic or parking violations; (3) any person accompanying a Director on a Authority-approved trip or event; (4) personal telephone calls; (5) fitness/health facility use; (6) massages; (7) alcoholic beverages; (8) entertainment (movies, sporting events, etc.); or (9) vehicle expenses other than the standard mileage charge.

### **Reimbursement Procedure**

Each Director seeking reimbursement must file with the Secretary of the Board an expense report no later than three weeks after the conclusion of the compensable activity. The report shall attach detailed, actual receipts for all expenses. The report shall document that each expense meets the requirements for reimbursement set forth in this policy. Without limiting the foregoing, each report shall identify the compensable activity and the date, nature, and purpose of each expense for which reimbursement is sought. For reimbursement of a personal vehicle expense at the standard mileage rate, the expense report shall identify the date of the travel, the actual miles traveled, and the business purpose of the travel. The Chief Executive Officer shall prepare a standard form of expense report for use by Directors in seeking reimbursement.

### **Board Reports**

Each Director seeking reimbursement of expenses incurred in connection with an activity shall provide a brief report of the activity at the next regular meeting of the Board of Directors.

### **Other Expenses**

Any expense that does not meet the requirements of this Policy may be reimbursed only if the Board of Directors approves the expense at a public meeting before the expense is incurred.

### **PENALTIES**

Any Director that misuses public resources or falsifies an expense report required by this Policy is subject to the following penalties: (1) loss of reimbursement privileges; (2) restitution of the Authority; (3) civil penalties for misuse of public resources pursuant to Government Code Section 8314; and/or (4) prosecution for misuse of public resources pursuant to Penal Code Section 424.

**Orange County Power Authority**  
**Policy Number 023: Changes to Default Rate Product Policy**

**Purpose**

Each Orange County Power Authority (“OCPA”) Member Agency has discretion to select the Default Rate Product for the customers in its respective jurisdiction. Prior to service launch, each Member Agency selected a Default Rate Product.

Although OCPA’s Joint Powers Agreement contemplates that each Member Agency may change its individual Default Rate Product, the Joint Powers Agreement does not specify a process.

A change in the Default Rate Product will impact OCPA’s fiscal, energy procurement, operational, and customer communication activities, and OCPA needs to appropriately plan for these changes.

OCPA enacts this Policy in order to specify a process for a Member Agency to change its Default Rate Product while providing OCPA sufficient notice and time to prepare for that change.

**Definitions**

1. “Board” means the Board of Directors of OCPA.
2. “OCPA Rates” means the rates applicable to a customer class as established in OCPA’s rate schedule. For example, rates D, GS-1, AL-2-F, TOU-GS-1-A.
3. “OCPA Rate Product” means a rate product approved by the Board and available to OCPA customers. For example, Basic Choice, Smart Choice, or 100% Renewable. An OCPA Rate Product is distinguishable from OCPA Rates.
4. “Default Rate Product” is an OCPA Rate Product option that each Member Agency selected as the default for the Member Agency’s customers. The Member Agency’s selection established the OCPA Rate Product (e.g., Basic Choice, Smart Choice, or 100% Renewable) that every customer in the Member Agency’s jurisdiction would be given unless the customer takes an Opt Action.
5. “Member Agency” means a party to OCPA’s Joint Powers Agreement.
6. “Opt Action” means an affirmative action taken by an individual OCPA customer account either (a) to choose an OCPA Rate Product that is different from the Default Rate Product for the customer’s current service location, or (b) to opt out of OCPA service.

**Process Regarding Changes to a Member Agency’s Selection of the Default Rate Product**

1. Advance Notice. If a Member Agency intends to change its Default Rate Product for the Member Agency’s customers, a Member Agency shall provide written notification to OCPA of the Member Agency’s decision to change its Default Rate Product before January 1 of the year in which the Default Rate Product change will occur. See Section 3 below.

Notwithstanding the foregoing, OCPA Chief Executive Officer and the Member Agency may



mutually agree upon a different notification schedule.

2. Activities Subsequent to Member Agency Notice. Upon receipt of a Member Agency's notice, OCPA may engage in any of the following activities:
  - a. Purchase or prepare to purchase the appropriate amount of resources to meet the expected change in demand when the Default Rate Product is changed;
  - b. Complete or prepare to complete additional regulatory compliance and reporting requirements, if any;
  - c. Coordinate with OCPA's data manager and Customer Service Center to make necessary operational adjustments;
  - d. Evaluate fiscal impacts of Default Rate Product change;
  - e. Examine OCPA Rates and any rate impacts;
  - f. Coordinate and work with SCE on billing considerations;
  - g. Prepare for and deploy customer communications efforts. See Section 4 below for additional detail;
  - h. Identify and address any other operational impacts or issues and take steps to mitigate those impacts/issues; or
  - i. Take any other action necessary to effectuate the Member Agency's change in Default Rate Product.
3. October Default Rate Product Change Implementation. OCPA will implement any change to the Default Rate Product in the month of October following the Member Agency's notification to OCPA of the Member Agency's Default Rate Product change pursuant to Section 1, above. The transition will take effect on the individual customer's first meter-read date in October.

Notwithstanding the foregoing, OCPA and the Member Agency may mutually agree upon a different implementation schedule.

4. Customer Communications. OCPA will notify customers subject to a Member Agency's Default Rate Product change. OCPA will lead, with support from the Member Agency, the development and dissemination of customer notices.
  - a. Required Notifications. Any customer accounts subject to a Member Agency's Default Rate Product change shall be sent a minimum of two (2) notifications. A minimum of one (1) notice shall be sent prior to the change going into effect.
  - b. Optional Additional Notifications. In addition to the two required notices referenced in Section 4.a., above, OCPA will coordinate with a Member Agency that wishes to develop and distribute additional customer notices and/or conduct additional communications such as on-bill messaging, bill inserts, social media campaigns,

jurisdictional newsletters, etc.

- c. Cost of Customer Notices. OCPA will cover the cost of the required customer notices for the Member Agency's first Default Rate Product change. Subsequent Default Rate Product changes will be subject to reimbursement by the Member Agency within sixty (60) days of receipt of an invoice from OCPA for the cost of the customer notices.
5. Exceptions to Application of Default Rate Product Change. Notwithstanding anything contained in this Policy, in no event shall a Member Agency's change in the Default Rate Product affect the following:
  - a. Prior Customer Opt Actions. Any customer account that has affirmatively taken any Opt Action.
  - b. Additional Exceptions. The OCPA Chief Executive Officer is authorized to determine additional exceptions for customers that would be excluded from the parameters of a Default Rate Product change or to implement the change on a different schedule than as set forth herein.
6. Frequency of Default Rate Product Change by a Member Agency. A Member Agency may change its Default Rate Product no more than one (1) time every two (2) years.
7. Customer Opt Actions. A customer may take an Opt Action at any time by notifying OCPA.

**ORANGE COUNTY POWER AUTHORITY**  
**Staff Report – Item 9.5**

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To: Orange County Power Authority Board of Directors

From: Brian Probolsky, Chief Executive Officer  
Nicholaus Norvell, Interim General Counsel

Subject: PUBLIC RECORDS ACT REPORT

Date: May 17, 2023

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**RECOMMENDED ACTION**

Receive and file.

**BACKGROUND**

As part of its February 2023 report, the State Auditor recommended that OCPA report to the Board of Directors no less than quarterly on: (1) the number of public records requests received, closed, and pending; (2) the average time OCPA took to respond to those requests; and the (3) reasons for withholding or not providing requested documentation, if applicable.

Below is a report covering the period from January 1, 2023 through May 12, 2023, which will be updated quarterly and provided to the Board.

<b>Requests Received</b>	13
<b>Requests Closed</b>	11
<b>Requests Pending</b>	2
<b>Determination or Extension Letters Provided within 10 Days</b>	Yes
<b>Average Calendar Days to Fully Complete Closed Requests</b>	26
<b>Public Records Act Exemptions Applied</b> <i>(Citations to Government Code unless otherwise noted)</i>	<ul style="list-style-type: none"><li>• Personnel, medical, or similar files (§ 7927.7003)</li><li>• Home addresses, home telephone numbers, cell phone numbers, birth dates of employees (§ 7928.300)</li><li>• Social security numbers (§ 7922.200)</li></ul>

	<ul style="list-style-type: none"><li>• Closed session materials (§ 7927.705, § 54963)</li><li>• Attorney-client privilege and attorney work product privilege (§ 7927.705, Evidence Code § 954, Code of Civil Procedure § 2018.030)</li><li>• Confidential market-sensitive energy information/trade secrets (§ 7927.705 § 7927.605, § 7922.005 Public Utilities Code § 454.5, CPUC Decisions/Rules, Civil Code § 3426.1, § 7922.000)</li><li>• Tax identification numbers and banking information under catch-all exemption (§ 7922.000)</li></ul>
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**ORANGE COUNTY POWER AUTHORITY**  
**Staff Report – Item 9.6**

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To: Orange County Power Authority Board of Directors

From: Steven Halligan, Management Analyst

Subject: CALIFORNIA ENERGY COMMISSION LOAD MANAGEMENT  
STANDARDS COMPLIANCE EXTENSION REQUEST

Date: May 17, 2023

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**RECOMMENDED ACTION**

Authorize OCPA staff to submit an extension request to the California Energy Commission Load Management Standards compliance obligations.

**BACKGROUND**

In October 2022, the California Energy Commission (CEC) amended its Load Management Standards (LMS) to require load-serving entities (LSEs) to upload their time-varying rates, which for Orange County Power Authority (OCPA) is our time of use (TOU) rates, onto the CEC's Market Informed Demand Automation Server (MIDAS). The CEC also required LSEs to develop electricity rates that would change on an hourly basis depending on locational marginal pricing and greenhouse gas emissions levels. OCPA is required to upload these time-dependent rates to MIDAS by July 1, 2023.

**Extension Request to Comply with July 1, 2023 LMS Obligation**

OCPA is seeking this extension for two reasons. First, the CEC has not provided criteria for rate upload, including the granularity of rate data, the upload format of various rate modifiers, and the treatment of import vs. export rates. Second, LSEs have identified numerous issues with MIDAS that the CEC has not addressed, including the fact that the MIDAS database development itself is not yet complete. Until the database is fully functional, LSEs will not be able to automate the process of uploading rates to MIDAS.

Manual upload of the rates is not feasible for OCPA because of the amount of time that would be required to upload the large number of rates and rate modifiers. These issues necessitate OCPA, along with the Investor-Owned Utilities (IOUs) and other Community Choice Aggregators (CCAs), to seek an extension of its July 1, 2023 compliance obligation.

The LMS regulations do not specify how an extension request should be filed. OCPA and other LSEs believe that in the absence of regulatory direction, an extension request to the CEC is

administrative and/or non-material and that a request from OCPA staff is sufficient. However, Sections 1623.1(a)(1) and 1623.1(a)(2) indicate that a CCA's rate approving body should approve a compliance plan with the LMS regulations by April 1, 2024, and may "approve a plan, or material revisions to a previously approved plan, that delays compliance or modifies compliance." This language could be read to suggest that an extension to upload onto MIDAS requires Board approval. This is the interpretation that CEC's legal counsel has taken.

Accordingly, out of abundance of caution, OCPA staff requests authority from the Board to submit an extension request to the CEC to delay upload of OCPA's existing time-varying rates at least until the CEC has completed the development of the MIDAS database.

### **FISCAL IMPACT**

None

### **ATTACHMENT**

None

**ORANGE COUNTY POWER AUTHORITY**  
**Staff Report – Item 9.7**

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To: Orange County Power Authority Board of Directors

From: Nicholaus Norvell, Interim General Counsel

Subject: CONSIDER FOURTH AMENDMENT TO JOINT POWERS AGREEMENT

Date: May 17, 2023

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**RECOMMENDED ACTIONS**

1. Review draft Fourth Amendment to Joint Powers Agreement removing weighted voting provisions and related exhibits.
2. Direct staff to provide Member Agencies with a copy of the proposed Fourth Amendment and place Fourth Amendment on a future agenda for final approval.

**BACKGROUND**

Under OCPA's existing Joint Powers Agreement, weighted voting can be invoked by two or more Directors in limited circumstances, such as when there is a tie vote by the Board for Directors or to immediately nullify an action that was passed by an "equal vote" of the Board. On such votes, weighted voting allows the Board to vote in accordance with the proportion of electricity use by users within their respective jurisdictions. Under the Joint Powers Agreement, the exhibits for weighted voting are required to be updated each year no later than March 1 based on prior calendar year numbers.

At its February 15, 2023 meeting, the Board of Directors voted to update the exhibits for weighted voting in accordance with the language of the Joint Powers Agreement. As part of the approved motion, the Board provided direction for staff to return at the April meeting to discuss potential amendments to the weighted voting provisions of the Joint Powers Agreement.

As discussed at the February Board meeting, the existing weighted voting language raised two points of discussion:

1. Data reporting delays by SCE can affect OCPA's ability to timely calculate weighted voting shares based on prior calendar year data within each Member Agency's service area.
2. The current weighted voting language has an adverse impact on the weighted voting of new members, as the calculation is based on actual electrical use by accounts served by OCPA. As there will be a period during which any new member is not actually being served by OCPA, a strict application of Section 3.9.3 of the Joint Powers Agreement results in new members having a 0% share for weighted votes. This means that new members have

a vote during regular “equal votes” of the Board, but a 0% voting share during weighted votes.

Following discussion at the April 19, 2023 meeting, the Board approved a motion to proceed with removing weighted voting under the OCPA Joint Powers Agreement.

#### Fourth Amendment to JPA Agreement

The draft Fourth Amendment to the JPA Agreement is attached as Attachment 1 and would remove the following weighted voting-related provisions and exhibits (as well as cross-references thereto in Section 3.9.1):

- Section 3.9.2 (Voting Shares Vote)
- Section 3.9.3 (Voting Shares Formula)
- Exhibit B (Annual Energy Use by Jurisdiction)
- Exhibit C (Party Voting Shares)

#### Board Review and Next Steps

The JPA Agreement requires that the Member Agencies be notified at least 30 days before the approval of amendments to the JPA Agreement. OCPA staff is seeking: (1) Board review of the Fourth Amendment to the JPA Agreement; and (2) direction to provide Member Agencies with a copy of the proposed Fourth Amendment and notify the Member Agencies that the Board will consider the Fourth Amendment for final approval at an upcoming Board meeting.

In the alternative, the Board can provide further comments or direction on the Fourth Amendment before notifying the Member Agencies.

#### **FISCAL IMPACT**

None.

#### **ATTACHMENT**

Attachment 1: Draft Fourth Amendment to JPA Agreement



**FOURTH AMENDMENT TO THE  
ORANGE COUNTY POWER AUTHORITY  
JOINT POWERS AGREEMENT**

This Fourth Amendment to that certain Orange County Power Authority Joint Powers Agreement, dated November 20, 2020, by and between the parties set forth in Exhibit A to the Agreement is effective as of \_\_\_\_\_, 2023 (“**Fourth Amendment**”).

**RECITALS**

A. The Orange County Power Authority is a joint powers authority established on November 20, 2020, and organized under the Joint Exercise of Powers Act (Government Code section 6500 *et seq.*) as a separate public agency to collectively implement a community choice aggregation program and to exercise any powers common to the Authority’s members to further these purposes.

B. The Board of Directors previously amended the Agreement on February 9, 2021 (First Amendment), October 25, 2022 (Second Amendment), and [May 17, 2023] (Third Amendment).

C. The Board of Directors desires to further amend the Agreement to remove the provisions and exhibits in the Agreement relating to Voting Shares Votes, including internal cross-references thereto.

**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:

1. Amendments to the Agreement.

(a) Equal Vote. Section 3.9.1 of the Agreement is hereby amended to remove references to Sections 3.9.2 and 3.9.3 and replaced in its entirety as follows:

“3.9.1 Equal Vote. Each Director or participating alternate shall have one vote. Except as provided for in Section 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**”).”

(b) Voting Shares Vote; Voting Shares Formula. Sections 3.9.2 and 3.9.3 of the Agreement are hereby deleted in their entirety and the section numbers reserved for future use.

(c) Exhibits on Annual Energy Use by Jurisdiction and Party Voting Shares. Exhibits B and C of the Agreement are hereby deleted in their entirety and reserved for future use.

2. Capitalized Terms. Any capitalized terms not defined herein shall have the meanings set forth in the Agreement.

3. Full Force. Except as expressly set forth herein, the Agreement shall remain unmodified and in full force and effect.

**IN WITNESS WHEREOF**, the Parties have hereby approved and executed this Fourth Amendment as of the date first written above.

**ORANGE COUNTY POWER AUTHORITY**

By: \_\_\_\_\_  
Fred Jung, Chair  
Orange County Power Authority

Dated: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
General Counsel  
Orange County Power Authority

**ORANGE COUNTY POWER AUTHORITY**  
**Staff Report – Item 10.1**

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To: Orange County Power Authority Board of Directors

From: Joe Mosca, Director of Communications and External Affairs

Subject: COMMUNITY ADVISORY COMMITTEE UPDATE

Date: May 17, 2023

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**RECOMMENDED ACTION**

Receive and file.

**BACKGROUND**

The Community Advisory Committee (CAC) met on Monday, May 8, 2023. Staff or a member of the CAC will provide an update on the CAC.

**FISCAL IMPACT**

None

**ATTACHMENT**

None

**ORANGE COUNTY POWER AUTHORITY**  
**Staff Report – Item 10.2**

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To: Orange County Power Authority Board of Directors

From: Nicholas Norvell, Interim General Counsel

Subject: APPOINT INTERIM CEO AND APPROVE EMPLOYMENT AGREEMENT;  
UPDATE CHECK SIGNATORIES

Date: May 17, 2023

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**RECOMMENDED ACTION**

1. Adopt resolution appointing Joseph Mosca as Interim Chief Executive Officer effective June 1, 2023 and approving execution of an Employment Agreement with Mr. Mosca in substantially the form attached hereto, with non-substantive revisions approved by the Chair and reviewed and approved as to form by the Interim General Counsel.
2. Adopt Resolution designating authorized representatives to sign checks and other disbursements.

**BACKGROUND**

**Interim CEO Appointment**

At its meetings on April 19 and May 8, 2023, the Board of Directors considered the appointment of an Interim Chief Executive Officer (CEO) to serve from June 1, 2023, until a new permanent CEO can be recruited and appointed by the Board. As announced at the May 8, 2023 meeting, the Board selected current Director of Communications and External Affairs Joseph Mosca to serve as Interim CEO starting on June 1, 2023, subject to approval of an Employment Agreement.

Mr. Mosca was a founding member and a former Chair of the Board of Directors of San Diego Community Power and has a deep understanding of the California energy sector and local government. He previously worked for two California utilities, San Diego Gas & Electric and Southern California Gas Company. He also served as Mayor in the city of Sierra Madre in Los Angeles County and as Deputy Mayor in the city of Encinitas in San Diego County, in which capacity he also served as President of San Dieguito Water District.

The proposed Interim CEO Employment Agreement was developed based on similar interim employment contracts for local public agency executives. Under the agreement, Mr. Mosca will be compensated during his tenure as Interim CEO at an annual salary of \$255,000, while otherwise continuing to receive the same employment benefits he currently receives as Director of Communications and External Affairs.

The Employment Agreement expressly states the parties' intent for Mr. Mosca to return to his current position if the Board hires another person to serve as permanent CEO, except under specific circumstances described in the agreement.

### **Update to Check Signatories**

In January 2021, the Board of Directors adopted Resolution No. 2021-01, which authorized specific individuals to act on OCPA's behalf and to authorize OCPA's depository institutions to honor checks written on Authority accounts when executed by any two of the authorized representatives. For payments not issued from OCPA check stock where a signature is not applicable (such as wires or ACH bill pay) at least two of the authorized representatives are required to document their approval of the invoice or bill prior to payment. With the appointment of Mr. Mosca as Interim CEO, Resolution No. 2021-01 should be replaced effective as of June 1, 2023.

The attached Resolution would identify the following authorized representatives:

Joseph Mosca, Interim Chief Executive Officer  
Tiffany Law, Chief Financial Officer  
Michael Maher, Accountant

For checks in the amount of less than \$5,000, OCPA's depository institutions would be instructed to honor checks written executed by either the CEO or CFO. This is consistent with recommendations made by the State Auditor.

### **FISCAL IMPACT**

There is no negative impact to the current budget for Fiscal Year 22/23, and none expected for Fiscal Year 23/24, as Mr. Mosca's compensation as Interim CEO is less than the combined amounts budgeted for CEO salary and Director of Communications and External Affairs salary.

### **ATTACHMENTS**

Attachment A: Resolution appointing and Interim Chief Executive Officer and Authorizing Execution of an Employment Agreement  
Attachment B: Employment Agreement  
Attachment C: Resolution designating authorized representatives to sign checks and other disbursements

**RESOLUTION NO. 2023-XX**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
ORANGE COUNTY POWER AUTHORITY APPOINTING  
AN INTERIM CHIEF EXECUTIVE OFFICER AND  
AUTHORIZING EXECUTION OF AN EMPLOYMENT  
AGREEMENT**

A. 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 on November 20, 2020.

B. The Board of Directors of OCPA desires to appoint Joseph Mosca as Interim Chief Executive Officer and to authorize the execution of an Employment Agreement with Mr. Mosca.

C. Mr. Mosca desires to serve as Interim Chief Executive Officer of OCPA starting on June 1, 2023.

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

Section 1. Joseph Mosca is appointed as the Interim Chief Executive Officer effective June 1, 2023, pursuant to the Employment Agreement attached to the staff report.

Section 2. The Board Chair is authorized to execute the Employment Agreement with Mr. Mosca in substantially the form attached to the staff report, with non-substantive revisions approved by the Chair and reviewed and approved as to form by the Interim General Counsel.

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 May 17, 2023.

\_\_\_\_\_  
Fred Jung, Chair  
Orange County Power Authority

ATTEST:

\_\_\_\_\_  
Secretary  
Orange County Power Authority

# **ORANGE COUNTY POWER AUTHORITY**

## **EMPLOYMENT AGREEMENT**

(Interim Chief Executive Officer)

This INTERIM CHIEF EXECUTIVE OFFICER EMPLOYMENT AGREEMENT (“**Agreement**”) is made by and between ORANGE COUNTY POWER AUTHORITY, a California joint powers authority (“**OCPA**”), and JOSEPH MOSCA, an individual (“**Mosca**” or “**Employee**”) as of June 1, 2023 (“**Effective Date**”).

### **RECITALS**

- A. OCPA requires the use of temporary services of a Chief Executive Officer on an interim basis for an undetermined period of time (“**CEO**”);
- B. OCPA presently employs Employee as Director of Communications and External Relations;
- C. Employee is ready, willing and able to provide such CEO services to OCPA on an interim basis;
- D. Employee desires to accept employment by OCPA as its Interim CEO; and
- E. The Board of Directors has determined that Employee is the best qualified for the position of Interim CEO.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties agree as follows:

### **AGREEMENT**

SECTION 1. DUTIES OF EMPLOYEE. Employee shall assume the position of the Interim CEO and perform the functions and duties specified by OCPA’s Board and as provided by any such other resolutions of the Board, applicable laws, rules, regulations, orders, directives, policies, or procedures now in effect or hereafter adopted by OCPA. The Interim CEO shall have all powers currently held by OCPA’s CEO, including the power to hire and terminate employees, the authority to enter into contracts on behalf of OCPA in amounts established in OCPA policies, and to engage in all other duties as are set forth in the Interim CEO Job Description attached as Exhibit A, hereto.

- a. Full Energy and Skill. Employee shall faithfully, diligently, and to the best of Employee’s abilities, perform all duties that may be required under this Agreement. Employee agrees that Employee has a duty of loyalty and a general fiduciary duty to OCPA. Employee shall devote the whole of Employee’s working time, skill, experience, knowledge, ability, labor, energy, attention, and best effort exclusively to OCPA’s business and affairs.

- b. No Conflict. Employee shall not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, which is actually or potentially in conflict with, inimical to, or which interferes with the performance of Employee's duties. Nothing herein shall prevent Employee from participating in charitable, civic, educational, professional, or community affairs or from serving on the board of directors or advisory boards of private companies, subject to OCPA's Board approval and provided such activities do not materially interfere with the performance of his duties hereunder or create a potential conflict with OCPA or the appearance thereof. If at any time service on any board of directors or advisory board would, in the good faith judgment of the Board, conflict with the Employee's fiduciary duty to OCPA or create any appearance thereof, then Employee shall as soon as reasonably practicable considering any fiduciary duty to the other entity, resign from such other board of directors or advisory board after written notice of the conflict is received from the Board.
- c. Hours of Work. Employee is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the CEO position. Employee does not have set hours of work as Employee is expected to be available at all times. It is recognized that Employee must devote a great deal of time to the business of OCPA outside of OCPA's customary office hours, and to that end Employee's schedule of work each day and week may vary in accordance with the work required to be performed and in accordance with any specific direction provided by the Board.

## SECTION 2. EFFECTIVE PERIOD AND AT-WILL EMPLOYMENT.

Employee is appointed as Interim CEO beginning on the Effective Date on an interim basis and for an undetermined period of time. Employee recognizes and agrees that his services in this position will be temporary in nature and will terminate in accordance with Section 3, below.

- a. At Will Employment. Employee understands and agrees that employment under this Agreement is "at-will" meaning that either Employee or the Board may terminate Employee's employment at any time, with or without cause, subject only to the provisions set forth below in Section 3.
- b. No Property Interest. Employee understands and agrees that Employee has no constitutionally-protected property or other interest in Employee's employment as CEO. Employee understands and agrees that Employee works at the will and pleasure of OCPA's Board, and that Employee may be terminated, or asked to resign, at any time, with or without cause, by a majority vote of its members.

## SECTION 3. TERMINATION.

- a. Assumption of a Permanent CEO. The Parties agree that OCPA's intention in providing Employee this Agreement is that Employee's services as Interim CEO shall only be required on a temporary basis. As such, this Agreement shall automatically terminate upon the effective date of the Board's appointment of a permanent CEO. Upon termination of this Agreement under this provision, it is the intention of the



Parties that Employee shall return to continue to serve OCPA in his former position as Director of Communications and External Relations, unless removed for cause, as specified below.

- b. By OCPA—"Without Cause." OCPA reserves the right to terminate Employee's employment as Interim CEO "Without Cause" with thirty (30) days' written notice to Employee. Termination of Employee's employment as Interim CEO "Without Cause" does not automatically terminate Employee's employment as Director of Communications and External Relations, and it is anticipated that Employee would return to his former position.
- c. By OCPA—"For Cause." At any time, and without prior notice, OCPA may terminate Employee for Cause. OCPA shall pay Employee all compensation then due and owing; thereafter, all of OCPA's obligations under this Agreement shall cease. Termination shall be "For Cause" if Employee: (i) acts in bad faith and to the detriment of OCPA; (ii) willfully and unequivocally refuses or fails to act in accordance with any specific direction or order of OCPA's Board; (iii) exhibits in regard to his employment gross unfitness or chronic unavailability for service, unsatisfactory performance, misconduct, dishonesty, habitual neglect, or incompetence; (iv) is convicted of a crime involving dishonesty, breach of trust, or physical or emotional harm to any person resulting in incarceration; (v) commits or is accused of committing an act involving moral turpitude under federal, state, or local law (regardless of whether or not such act involving moral turpitude is a misdemeanor or felony); and/or (vi) breaches any material term of this Agreement.
- d. Statutory Requirements. In compliance with Government Code section 53243, to the extent OCPA provides: (i) paid leave to Employee pending an investigation; (ii) funds for the legal criminal defense of the Employee; and/or (iii) a cash settlement to Employee related to the termination of Employee pursuant to Section 3(b) of this Agreement, Employee shall fully reimburse OCPA for any and all amounts paid by OCPA which fall within any such categories in the event that Employee is convicted of a crime involving the abuse of their office or position.

#### SECTION 4. COMPENSATION AND PERFORMANCE REVIEWS.

- a. Employee shall receive the base annual salary of Two Hundred and Fifty Five Thousand Dollars (\$255,000), payable on a pro-rata basis in accordance with OCPA's payroll practices and less all applicable payroll taxes and withholdings. Employee may be eligible for an increase in salary on the anniversary of this Agreement, subject to approval by a majority of the members of the Board.
- b. The Parties recognize that Employee shall serve in the position of Interim CEO for a temporary period of time. To the extent necessary, OCPA shall perform a performance review of Employee at least annually. The Board or a committee of the Board of Directors shall additionally review the base compensation, bonuses, and benefits provided to Employee under this Agreement and may, in their sole discretion, adjust the same.

SECTION 5. OTHER BENEFITS. Employee's entitlement to benefits shall remain unchanged from that which he enjoys as Director of Communications and External Relations, including but not limited to health care coverage and premium payments, retirement plans and/or 401(k) plans, sick leave, vacation accrual, and reimbursement for ordinary and necessary job-related expenses incurred on behalf of OCPA in accordance with OCPA policy and applicable law, including but not limited to transportation, conference registration, meals, and hotel accommodations. Employee shall provide appropriate receipts to OCPA for any expense reimbursements.

SECTION 6. INDEMNIFICATION. OCPA shall indemnify and defend Employee in accordance with the California Government Claims Act. Unless otherwise specifically required by law, OCPA's Board shall determine, in its sole discretion, whether to file an appeal if a final judgment is adverse to Employee or whether to compromise and settle any such claim or suit against Employee, as well as the amount of any settlement or judgment rendered thereon. OCPA shall also pay for the cost of any fidelity or other bonds required by law for the position of CEO.

SECTION 7. OTHER TERMS AND CONDITIONS OF EMPLOYMENT. OCPA shall make any other terms and conditions of employment related to the performance of Employee, provided such terms and conditions are not inconsistent with the provisions of this Agreement or by law.

SECTION 8. NOTICES. Notices given under this Agreement shall be in writing and shall be served personally or sent by Federal Express or some equivalent private overnight delivery service. Notices shall be deemed received at the earlier of actual receipt or two (2) days following transmission to an overnight carrier.

To OCPA:                      Orange County Power Authority  
Attn: Chair of the Board of Directors  
15642 Sand Canyon Ave.  
P.O. Box 54283  
Irvine, CA 92619-4283

With a copy to:  
Nicholaus Norvell  
OCA Interim General Counsel  
c/o Best, Best & Krieger LLP  
655 W. Broadway, 15th Floor  
San Diego, CA 92101

To Employee:              Joe Mosca  
At the address on file with OCPA's  
Human Resources Department

SECTION 9. INTEGRATION. This Agreement is intended to be the final, complete, and exclusive statement of the terms of Employee's employment by OCPA. This Agreement

supersedes all other prior and contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the employment of Employee, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements. To the extent that the practices, policies, or procedures of OCPA, now or in the future, apply to Employee and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control.

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

SECTION 11. ASSIGNMENT; SUCCESSORS AND ASSIGNS. Employee agrees that he or she will not assign, sell, transfer, delegate, or otherwise dispose of, whether voluntarily or involuntarily, or by operation of law, any rights or obligations under this Agreement. Any such purported assignment, transfer, or delegation shall be null and void. Nothing in this Agreement shall prevent the consolidation of OCPA with, or its merger into, any other entity, or the sale by OCPA of all or substantially all of its assets, or the otherwise lawful assignment by OCPA of any rights or obligations under this Agreement. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, legal representatives, successors, and permitted assigns, and shall not benefit any person or entity other than those specifically enumerated in this Agreement.

SECTION 12. SEVERABILITY. If any provision of this Agreement, or its application to any person, place, or circumstance, is held by an arbitrator or a court of competent jurisdiction to be invalid, unenforceable, or void, such provision shall be enforced to the greatest extent permitted by law, and the remainder of this Agreement and such provision as applied to other persons, places, and circumstances shall remain in full force and effect.

SECTION 13. ATTORNEY'S FEES. In any legal action, arbitration, or other proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

SECTION 14. GOVERNING LAW AND VENUE. This Agreement shall be governed by and construed in accordance with the laws of the State of California. The Parties agree that venue for any dispute shall be in Orange County Superior Court.

SECTION 15. INTERPRETATION. This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit nor against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement.

SECTION 16. REPRESENTATION BY COUNSEL. The Parties acknowledge and agree that they were, or had the opportunity to be, represented individually by legal counsel with

respect to the matters that are the subject of this Agreement and that they are fully advised with respect to their respective rights and obligations resulting from signing this Agreement.

SECTION 17. COUNTERPARTS AND ELECTRONIC SIGNATURES. This Agreement may be executed in triplicate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree that this Agreement may be executed and delivered by electronic signatures and that the signatures appearing on this Agreement are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

IN WITNESS WHEREOF, OCPA and Employee have executed this Agreement on the date written below:

ORANGE COUNTY POWER AUTHORITY      EMPLOYEE

By: \_\_\_\_\_  
Chair, OCPA Board of Directors

By: \_\_\_\_\_  
Joseph Mosca

APPROVED AS TO FORM:

By: \_\_\_\_\_  
OCA General Counsel

## **EXHIBIT A**

### **INTERIM CHIEF EXECUTIVE OFFICER JOB DESCRIPTION**

The Interim Chief Executive Officer is responsible for the day-to-day operation and management of the Orange County Power Authority (“Authority”) and its community choice aggregation (“CCA”) program. The Interim Chief Executive Officer may exercise all powers of the Authority except those powers specifically reserved to the Board under the Authority’s Joint Powers Agreement, the Authority’s bylaws, or other enactments or directions of the Board. Responsibilities of the Interim Chief Executive Officer include:

- **Authority Direction and Supervision.** Oversee all functions of the Authority, including administration, finance, staffing, marketing, public affairs, power planning and procurement, supply operations, local energy programs, and legislative and regulatory affairs; provide administrative direction and supervision to employees, including assigning projects and objectives; conducting performance evaluations; developing, motivating, and training; and, hiring, terminating and disciplining.
- **Board Relations; Implementation of Policies.** Foster and maintain a strong relationship with the Board; approve agendas for presentation to the Board; present briefings, policies, reports, and recommendations to the Board; administer and implement Board-adopted ordinances, resolutions, bylaws, policies, procedures, and other enactments.
- **Contracting.** Enter into and execute contracts, including power purchase agreements and other agreements, in accordance with criteria and policies established by the Board.
- **Internal Leadership.** Provide direction and assistance to staff members, including management team building and training.
- **Customer and Stakeholder Relations.** Interact with Authority customers and stakeholders regarding a variety of issues; interact with the media presenting appropriate information on programs, services, and events.
- **Inter-Agency Relations.** Foster and maintain strong relationships with external agencies, including the Authority member agencies, other local, state, and federal governments, the California Public Utilities Commission, and other key agencies and stakeholders.
- **Strategies.** Develop and implement Authority strategies in conjunction with other the Authority management staff; approve strategies and communicate to staff.
- **Reports and Correspondence.** Prepare, review, and approve a variety of reports and correspondence.
- **Other.** Perform other duties of a similar nature or level.

**RESOLUTION NO. 2023-\_\_**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE ORANGE COUNTY POWER AUTHORITY  
DESIGNATING AUTHORIZED REPRESENTATIVES  
TO SIGN CHECKS AND OTHER DISBURSEMENTS**

A. The Orange County Power Authority (“Authority”) is a joint powers authority formed pursuant to the Joint Exercise of Powers Act, Government Code § 6500 *et seq.*, Public Utilities Code § 366.2, and a Joint Powers Agreement effective on November 20, 2020 (“JPA Agreement”).

B. Authority has adopted a Procurement Policy providing administrative procurement practices and a Delegated Contract Authority Policy concerning execution of contracts and related documents, as each may be amended from time to time.

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

Section 1. Authority’s depository institutions are instructed to honor checks written on Authority accounts when executed by any two of the following authorized representatives. For payments not issued from Authority check stock where a signature is not applicable (such as wires or ACH bill pay) at least two of the following authorized representatives will document their approval of the invoice or bill prior to payment:

Joseph Mosca, Interim Chief Executive Officer  
Tiffany Law, Chief Financial Officer  
Michael Maher, Accountant

Section 2. Notwithstanding the above, for checks in the amount of less than \$5,000, Authority’s depository institutions are instructed to honor checks written on Authority accounts when executed by either:

Joseph Mosca, Interim Chief Executive Officer; or  
Tiffany Law, Chief Financial Officer

Section 3. No checks are to be prepared or executed without compliance with applicable Authority policies and procedures and appropriate support documentation for the expense (*e.g.*, purchase order, packing slip, or invoice).

Section 4. Resolution No. 2021-01 and any other similar resolution authorizing persons to sign checks or approve payments on behalf of OCPA, if any, are hereby rescinded.

Section 5. This resolution shall take effect on June 1, 2023.

**PASSED AND ADOPTED** at a meeting of the Board of Directors of the Orange County Power Authority held on May 17, 2023.

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Chair, Board of Directors  
Orange County Power Authority

ATTEST:

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Secretary  
Orange County Power Authority

**ORANGE COUNTY POWER AUTHORITY**  
**Staff Report – Item 10.3**

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To: Orange County Power Authority Board of Directors

From: Nicholaus Norvell, Interim General Counsel

Subject: APPROVE BYLAWS AND THIRD AMENDMENT TO JOINT POWERS AGREEMENT AND APPOINT A SECRETARY

Date: May 17, 2023

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**RECOMMENDATIONS**

1. Approve Bylaws and Third Amendment to Joint Powers Agreement.
2. Adopt Resolution Appointing Pat Jacquez-Nares as OCPA Secretary.

**BACKGROUND**

On February 15, 2023, the Board of Directors reviewed and provided comments on draft bylaws (“Bylaws”) to supplement OCPA’s Joint Powers Agreement (“JPA Agreement”) and provide supplemental procedures for the governance of OCPA. On March 15, 2023, the Board reviewed the updated Bylaws and a draft Third Amendment that makes related changes to the JPA Agreement. At the March meeting, the Board directed staff to provide Member Agencies with at least 30 days’ advance written notice and a copy of the proposed Bylaws and Third Amendment and place the Bylaws and Third Amendment on a future agenda for final approval.

The proposed Bylaws and Third Amendment were provided to the Member Agencies on March 27, 2023. As of the date of publication of this staff report, no comments were received from the Member Agencies.

Approval of the Bylaws and Third Amendment requires approval by two-thirds of the Directors of the entire Board.

In the event the Board approves the Bylaws and Third Amendment, the Board will need to appoint a qualified person who is not on the Board to serve as Secretary. The Secretary is responsible for keeping minutes of all meetings of the Board and all other official records of OCPA. The proposed Resolution would appoint Pat Jacquez-Nares as OCPA’s Secretary. Ms. Jacquez-Nares has been employed by OCPA since December 2022 and has twenty-five years of experience as a City Clerk, Assistant City Clerk, or Deputy City Clerk for various cities. Approval of the Resolution requires a majority vote of the Directors present at the meeting.



### Third Amendment to JPA Agreement

The proposed Third Amendment to the JPA Agreement is attached as Attachment 1 and remains the same as presented at the March 15, 2023 meeting. The Third Amendment would make the following changes:

1. Provide that the Board of Directors will appoint a qualified person who is not on the Board to serve as Secretary. (Under the current text of Sections 3.10.2 and 3.12 of the JPA Agreement, the Chief Executive Officer is designated to serve as Secretary.)
2. Add language providing that, upon a vacancy in the office of Chair or Vice Chair, the position will be filled at the next regular meeting of the Board held after such vacancy occurs, or as soon as practicable thereafter. (The JPA Agreement is currently silent on how quickly a vacancy in the positions of Chair and Vice Chair must be filled.)
3. Establish that the term of office of Directors and alternate Directors is two (2) years *or until a successor is appointed*. (The current text of Section 3.3 of the JPA Agreement provides for a two (2) year term; this leaves open the possibility that the Board could experience multiple vacancies simultaneously, including the possibility of the Board lacking a quorum of appointed Directors (or alternate Directors) to hold meetings. The proposed change would maintain the general two (2) year term, while allowing appointed Directors and alternate Directors who remain on their respective governing bodies to serve until a successor is appointed. This is similar to Government Code and Elections Code provisions allowing councilmembers or other local elected officials to temporarily continue in office until their successor qualifies and takes office.)

### Bylaws

The Bylaws remain the same as presented at the March 15, 2023 meeting. As previously noted, the proposed Bylaws were drafted based on OCPA's JPA Agreement and review of the bylaws and similar governing documents used by other large community choice energy JPAs, including Clean Power Alliance, San Diego Community Power, and MCE Clean Energy. The proposed Bylaws are attached as Attachment 2 and contain articles concerning the following:

Article I	General Provisions, including purpose and definitions for Bylaws
Article II	Board of Directors, including provisions on Directors, alternates, resignation, vacancy, and compensation
Article III	Officers, including the Chair, Vice-Chair, Secretary, and Treasurer/Auditor
Article IV	Meetings, including provisions on Brown Act compliance, closed session attendance, preparation of agendas, addition of agenda items by Board Members (which if adopted would make changes to and replace existing Policy 12, Board Agenda Policy), agenda order, consent calendar, public comments, meeting rules of order and procedures using Rosenberg's Rules of Order, and basic rules of debate and decorum
Article V	Quorum and Voting, which reflects the requirements of the JPA Agreement

Article VI	Policy Regarding Confidential Information Disclosed During Closed Session, including limited authorization to share certain closed session information with the legal counsel and governing bodies of Member Agencies under specific circumstances
Article VII	Board Committees, including appointment, voting in committees, participation of alternate Directors, removal of committee members, and ad hoc committees
Article VIII	Chief Executive Officer, which reflects the provisions of the JPA Agreement
Article IX	Debts, Liabilities and Obligations, which reflects the provisions of the JPA Agreement
Article X	Amendments, including administrative procedures for notifying Member Agencies and amending the JPA Agreement and Bylaws in compliance with the JPA Agreement

## **FISCAL IMPACT**

None.

## **ATTACHMENT**

Attachment 1: Proposed Third Amendment to JPA Agreement

Attachment 2: Proposed Bylaws

Attachment 3: Resolution Appointing Pat Jacquez-Nares as OCPA Secretary.

**THIRD AMENDMENT TO THE  
ORANGE COUNTY POWER AUTHORITY  
JOINT POWERS AGREEMENT**

This Third Amendment to that certain Orange County Power Authority Joint Powers Agreement, dated November 20, 2020, by and between the parties set forth in Exhibit A to the Agreement is effective as of \_\_\_\_\_, 2023 (“**Third Amendment**”).

**RECITALS**

A. The Orange County Power Authority is a joint powers authority established on November 20, 2020, and organized under the Joint Exercise of Powers Act (Government Code section 6500 *et seq.*) as a separate public agency to collectively implement a community choice aggregation program and to exercise any powers common to the Authority’s members to further these purposes.

B. On February 9, 2021, the Board of Directors approved the First Amendment to the Agreement extending the right of a Founding Party to withdraw under Section 6.1.1 of the Agreement until April 1, 2021.

C. On October 25, 2022, the Board of Directors approved the Second Amendment to the Agreement, relating to the qualifications of Directors and alternate Directors, setting Directors’ and Alternates’ terms of office at two (2) years, establishing the terms of office for the Chair and Vice Chair, and related changes.

D. The Board of Directors desires to amend the Agreement as follows:

1. Establish that the terms of office for regular and alternate Directors is two (2) years *or* until a successor is appointed;
2. Establish that vacancies in the offices of Chair and Vice Chair shall be filled at the next regular meeting of the Board or as soon as practicable thereafter, and that the new Chair and Vice Chair will perform the duties of the office for the remainder of the office’s term; and
3. Establish that the Board of Directors will appoint a qualified person who is not on the Board to serve as Secretary, and that such office will not automatically be held by the Chief Executive Officer.

**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:

1. Amendments to the Agreement.

(a) Terms of Office. Section 3.3 of the Agreement is hereby amended and replaced in its entirety as follows:

“3.3 Terms of Office. Each regular or alternate Director shall serve a term of office of (2) years or until a successor is appointed. A regular or alternate Director shall serve at the pleasure of the governing body of the Party that the regular or alternate Director represents and may be removed by such governing body at any time, with or without cause. If at any time a vacancy occurs on the Board, a replacement Director shall be appointed by the governing body to fill the position of the previous Director within forty-five (45) days of the date that such position becomes vacant. A replacement Director shall serve until the scheduled expiration of the term of office of the Director they replace.”

(b) Chair and Vice Chair. Section 3.10.1 is hereby amended to add the following sentences at the end of the section:

“Upon a vacancy in the office of Chair or Vice Chair, the position shall be filled at the next regular meeting of the Board held after such vacancy occurs or as soon as practicable thereafter. Succeeding officers shall perform the duties normal to said offices for the remainder of the respective term.”

(c) Secretary. Section 3.10.2 of the Agreement is hereby amended and replaced in its entirety as follows:

“3.10.2 Secretary. The Board shall appoint a qualified person who is not on the Board to serve as Secretary. The Secretary shall be responsible for keeping the minutes of all meetings of the Board and all other official records of the Authority.”

(d) Chief Executive Officer. Section 3.12 of the Agreement is hereby amended and replaced in its entirety as follows:

“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. 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.”

2. Capitalized Terms. Any capitalized terms not defined herein shall have the meanings set forth in the Agreement.
3. Full Force. Except as expressly set forth herein, the Agreement shall remain unmodified and in full force and effect.

[SIGNATURE ON FOLLOWING PAGE]

**IN WITNESS WHEREOF**, the Parties have hereby approved and executed this Third Amendment as of the date first written above.

**ORANGE COUNTY POWER AUTHORITY**

By: \_\_\_\_\_  
Fred Jung, Chair  
Orange County Power Authority

Dated: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
General Counsel  
Orange County Power Authority

# BYLAWS FOR ORANGE COUNTY POWER AUTHORITY

## PREAMBLE

The Orange County Power Authority (“**Authority**”) was established pursuant to that certain document entitled *Orange County Power Authority Joint Powers Agreement*, dated November 20, 2020, as amended from time to time (“**JPA Agreement**”). All parties that executed the JPA Agreement prior to December 31, 2020 are designated individually as a “**Founding Party**” or collectively as “**Founding Parties**.” All cities, counties or other public agencies added as parties to the JPA Agreement after December 31, 2020 are designated individually as an “**Additional Party**” or collectively as “**Additional Parties**.” The members of the Authority are referred to in these Bylaws individually as a “**Party**,” which includes a Founding Party or Additional Party, or collectively as “**Parties**,” which includes Founding Parties and Additional Parties.

## ARTICLE I GENERAL PROVISIONS

### Section 1. Authority Purpose.

The Authority is formed to create an independent public agency to exercise powers common to each Member Agency and to implement a community choice aggregation program and exercise all other powers necessary and incidental to accomplishing this purpose. The Authority will provide opportunities by which Member Agencies 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 Member Agencies and their constituents, including, but not limited to, establishing and operating a community choice aggregation program.

### Section 2. Purpose of Bylaws.

The JPA Agreement authorizes the Board of Directors to adopt such bylaws, rules and regulations as are necessary or desirable to accomplish the purposes of the JPA Agreement; provided, however, that nothing in such bylaws, rules or regulations shall be inconsistent with the JPA Agreement. By approving these Bylaws, the Board intends to adopt additional procedures concerning the Authority’s basic governance, internal organization, Board committees, and other matters addressed in these Bylaws.

### Section 3. Definitions.

Unless specifically defined in these Bylaws, all defined terms shall have the same meaning as ascribed to them in the JPA Agreement.

### Section 4. Precedence

In the event of any conflict between these Bylaws and the JPA Agreement, the JPA Agreement shall control and these Bylaws shall be amended or clarified to eliminate such conflict.

## **ARTICLE II BOARD OF DIRECTORS**

### **Section 1. Board of Directors.**

The Authority shall be governed by a Board of Directors composed of one representative of each of the Member Agencies, except the City of Irvine, which shall appoint two representatives subject to Section 3.1 of the JPA Agreement. 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 person appointed and designated as the Director shall be a current elected member of the governing body of the Party. A Director shall serve a term of two (2) years or until a successor is appointed. A Director shall serve at the pleasure of the governing body of the Party that the Director represents and may be removed by such governing body at any time, with or without cause.

### **Section 2. Alternate Directors**

The governing body of each Party shall also appoint and designate in writing an alternate Director(s) who may vote on matters when the regular Director is absent from an Authority meeting. The person appointed and designated as the alternate Director shall be a current elected member of the governing body of the Party. An alternate Director shall serve a term of two (2) years or until a successor is appointed. An alternate Director shall serve at the pleasure of the governing body of the Party that the alternate Director represents and may be removed by such governing body at any time, with or without cause. The alternate Director shall have all the rights and responsibilities of the regular Director when serving in his or her absence. When serving in the absence of the regular Director, an alternate Director may vote on matters in committee, chair committees, and fully participate in discussion and debate during Authority meetings.

### **Section 3. Vacancy**

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 forty-five (45) days of the date that such position becomes vacant. A replacement Director shall serve until the scheduled expiration of the term of office the Director they replace.

### **Section 4. Resignation**

A regular or alternate Director may resign at any time by giving written notice to the Board Secretary. The notice of resignation shall specify a date on which the resignation is effective.

### **Section 5. Compensation**

In accordance with Section 3.8 of the JPA Agreement, 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.

## ARTICLE III OFFICERS

### Section 1. Officers

There shall be a Chair, a Vice-Chair, a Secretary and a Treasurer/Auditor.

- A. *Chair.* The Chair of the Authority shall be a Director. Duties of the Chair are to supervise the preparation of the business agenda, preside over Authority meetings, and sign all ordinances, resolutions, contracts and correspondence adopted or authorized by the Board. The Directors shall select among themselves the Chair. Beginning at the first regular Board meeting in December 2022, the term of office of the Chair shall be one year with an election held annually. There shall be no limit on the number of terms held by the Chair. The office of the 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 (ii) the Party that appointed the Director serving as Chair withdraws from the Authority pursuant to the provisions of the JPA Agreement. Upon a vacancy in the office of Chair, the position shall be filled at the next regular meeting of the Board held after such vacancy occurs or as soon as practicable thereafter. The succeeding Chair shall perform the duties normal to said office for the remainder of the term.
- B. *Vice-Chair.* The Vice-Chair of the Authority shall be a Director. The Vice-Chair shall perform the duties of the Chair in the absence of such officer. The Directors shall select among themselves the Vice-Chair. Beginning at the first regular Board meeting in December 2022, the term of office of the Vice-Chair shall be one year with an election held annually. There shall be no limit on the number of terms held by the Vice-Chair. The office of the 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 (ii) the Party that appointed the Director serving as Vice-Chair withdraws from the Authority pursuant to the provisions of the JPA Agreement. Upon a vacancy in the office of Vice Chair, the position shall be filled at the next regular meeting of the Board held after such vacancy occurs or as soon as practicable thereafter. The succeeding Vice Chair shall perform the duties normal to said office for the remainder of the term.
- C. *Secretary.* The Board shall appoint a qualified person who is not on the Board to serve as Secretary. The Secretary shall be responsible for keeping the minutes of all meetings of the Board and all other official records of the Authority.
- D. *Treasurer and Auditor.* In accordance with Government Code section 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 positions of Treasurer and Auditor may be combined into one position. The Treasurer and the Auditor shall possess the powers of, and shall perform those functions required of them by Government Code sections 6505, 6505.5, and 6505.6, and by all other applicable laws and regulations and amendments thereto. The Treasurer shall have custody of all the money of the Authority. The Treasurer shall report directly to the Board and shall comply with the requirements of



treasurers of incorporated municipalities. The Board may transfer the responsibilities of the Treasurer and Auditor to any person or entity permitted by law.

## **ARTICLE IV MEETINGS**

### Section 1. Regular Meetings

The Board shall provide for its regular meetings, the date, hour and place of which shall be fixed by resolution of the Board.

### Section 2. Special Meetings, Emergency Meetings, and Adjourned Meetings

Special meetings and emergency meetings may be called upon the request of a majority of the members of the Board or by the Chair, in accordance with the provisions of Government Code sections 54956 and 54956.5, respectively. The Board may adjourn any regular, adjourned regular, special, or adjourned special meeting pursuant to the provisions of the Ralph M. Brown Act (Government Code § 54950, *et seq.*).

### Section 3. Open Meetings

The meetings of the Board, any Executive Committee, and any other legislative bodies established by the Board shall be governed by the provisions of the Ralph M. Brown Act (Government Code § 54950, *et seq.*). Directors may participate in meetings telephonically or remotely, with full voting rights, to the extent permitted by law and in accordance with any policies, rules, resolutions, or motions of the Board relating thereto.

### Section 4. Attendance of Alternates in Closed Session

Pursuant to Government Code section 54956.96(a)(2), the Board hereby authorizes an alternate Director who is attending a properly noticed Board meeting in the absence of the regular Director to attend a closed session held during such meeting.

### Section 5. Preparation of Agendas

The Chief Executive Officer, or designee, shall prepare the agenda for each Board meeting. Agenda items will be generated by the need to conduct Authority business in a timely manner. The Chief Executive Officer shall review with the Board Chair, or the Vice-Chair in the absence of the Chair, the agenda for Board meetings. The Chief Executive Officer shall cause the agenda for each meeting to be posted in accordance with the Ralph M. Brown Act (Government Code § 54950 *et seq.*).

The below steps shall be followed in finalizing the meeting agenda:

- A. The Chief Executive Officer will cause a draft of the meeting agenda to be created, including any timely received Director Initiated Agenda Items (discussed below).
- B. The Chief Executive Officer will submit the draft agenda to the General Counsel for legal review and verification of the necessary materials/documents. Any revisions will be given to the Chief Executive Officer.

- C. The Chief Executive Officer will revise the drafted agenda, if necessary, for the Board Chair's review.
- D. After approval of the Board Chair, the Chief Executive Officer will post agenda as required.

#### Section 6. Addition of Agenda Items Before a Meeting

Any Director may add a "Director Initiated Agenda Item" for consideration on an upcoming regular meeting agenda. Director Initiated Agenda Items are prepared by the requesting Director and require no staff time. Director Initiated Agenda Items must be submitted to the Chief Executive Officer at least five (5) calendar days prior to the next Board regular meeting. Items submitted less than five (5) calendar days before the scheduled regular meeting date may be postponed to a later meeting in order to allow sufficient time for consideration and research of the issue.

In addition, items may be added to a future Board meeting agenda in the following ways:

- A. The Chair provides express oral direction to the Chief Executive Officer during a Board meeting. If a Director disagrees with the Chair's direction, the Director may make a motion regarding the addition of the agenda item without discussion of the substance of the item.
- B. For agenda items requiring staff time, an agenda item shall be added by motion without discussion of the substance of the item.
- C. Requests from members of the public, after being authorized to speak, may be added to a future Board meeting agenda by a Director as a Director Initiated Agenda Item, as discussed above. If the item requires staff time, the item may be added only by an approved motion without discussion of the substance of the item.

The Chair or a majority of the Board may refer items to a committee for further review.

#### Section 7. Modification of Agenda Order; Addition of Items During a Meeting

The order of items on a Board meeting agenda may be modified by the Chair if there is no objection, or by a motion and majority vote of the Board. No action or discussion may be undertaken on any item not appearing on the posted agenda, except as allowed by the Ralph M. Brown Act (Government Code § 54950 *et seq.*).

#### Section 8. Consent Calendar

The consent calendar for a Board meeting shall consist of agenda items that are routine or ministerial in nature on which no Board discussion will be required. These items will be acted upon as one item. Before adopting the consent calendar, the Chair will ask Directors whether anyone desires to remove a matter from the consent calendar. Members of the public may also request that a Director remove a matter from the consent calendar. The Board will then proceed with consideration of the remaining consent calendar. The consent calendar will be acted upon in one motion without discussion. Items pulled from the consent calendar will be considered immediately following adoption of the remaining consent calendar, and oral staff reports will only be given if requested by the Director who pulled them.

#### Section 9. Public Comments

Agendas of regular Board meetings shall provide an opportunity for members of the public to address the Board on any item within the Authority's jurisdiction that is not on the agenda. Generally, speakers shall be limited to three (3) minutes each. The total time for non-agenda public comments shall not exceed thirty (30) minutes; provided, however, that if the number of speakers is estimated to exceed the 30-minute period, the Chair may, in his or her discretion, reduce the time allotted to each speaker, extend the period for non-agenda public comment, and/or continue the remaining comments to the end of the agenda.

For public comments on agenda items, speakers shall be limited to three (3) minutes each. The Chair may, in his or her discretion, reduce the time allotted to each speaker.

#### Section 10. Order and Procedure at Meetings

All meetings of the Board shall be conducted in an orderly manner designed to expedite the business of the Board in accordance with applicable law, the JPA Agreement and these Bylaws. Except as otherwise provided therein, Rosenberg's Rules of Order (League of California Cities, Rev. 2011) will be used as a guide to resolve questions of parliamentary procedures. The General Counsel shall serve as the Parliamentarian.

#### Section 11. Rules of Debate and Decorum

Debate upon all matters pending before the Board shall be under the supervision of the Chair and conducted in such a manner as to expedite the business of the Board. Every Director desiring to speak shall so indicate by using the "request to speak" button, if available, or otherwise address the Chair. Upon recognition by the Chair, the Director shall confine remarks to the item under consideration. A Director, once recognized, shall not be interrupted when speaking unless it is to call the Director to order. If a Director while speaking is called to order, the Director shall cease speaking until the question of order is determined.

### **ARTICLE V QUORUM & VOTING**

#### Section 1. 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. No actions of the Board may be taken without a quorum of the Directors present.

#### Section 2. Equal Vote

In general, except when a Voting Shares Vote or Special Voting is expressly required by the JPA Agreement, 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**"). Notwithstanding the foregoing, an Equal Vote may be subject to a "Voting Shares Vote."

#### Section 3. 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 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 of the JPA Agreement. 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 JPA 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 JPA Agreement more than seventy-five percent (75%) of the voting shares of all Directors voting. 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.

The formula for a Voting Shares Vote shall be determined pursuant to Section 3.9.3 of the JPA Agreement.

#### Section 4. Special Voting

An affirmative vote of two-thirds of the Directors of the entire Board shall be required to take any action on the following:

- A. Issuing or repayment of bonds or other forms of debt;
- B. Adding or removing Parties on or after January 1, 2021;
- C. Amending or terminating the JPA Agreement or adopting or amending Authority Bylaws;  
and
- D. Terminating the CCA program.

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).

Matters requiring Special Voting may be subject to a Voting Shares Vote.

Matters that require Special Voting shall require at least 30 days advance written notice to each Member Agency. 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 the JPA Agreement or the Bylaws. The Authority shall also provide prompt written notice to each Member

Agency 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.

## **ARTICLE VI**

### **POLICY REGARDING CONFIDENTIAL INFORMATION DISCLOSED DURING CLOSED SESSIONS**

Information obtained during closed sessions of the Board shall be confidential. Notwithstanding, under certain circumstances, it may be necessary and appropriate for Directors to divulge certain confidential information obtained in closed sessions to representatives of their Member Agencies as authorized by law. Therefore, these Bylaws adopt the policy set forth in Government Code section 54956.96, which authorizes the disclosure of confidential closed session information that has direct financial or liability implications for that Member Agency as follows:

- A. A Director or alternate Director who is also a member of the governing body of a Member Agency may disclose information obtained in an Authority closed session that has direct financial or liability implications for that Member Agency to the following individuals:
  - 1. Legal counsel of that Member Agency for purposes of obtaining advice on whether the matter has direct financial or liability implications for that Member Agency; and
  - 2. Other members of the governing body of the Member Agency present in a closed session of that Member Agency.
- B. The governing body of the Member Agency may, upon the advice of its legal counsel, conduct a closed session to receive, discuss and take action concerning information obtained in a closed session of the Authority pursuant to this Article.

## **ARTICLE VII**

### **BOARD COMMITTEES**

#### Section 1. 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 the JPA Agreement. In accordance with the JPA Agreement, the Board may delegate to any committees that consist solely of Board members any of the powers specified in subsection 2.1 of the JPA Agreement, except for the power to acquire property by eminent domain. Committees that include or consist of non-Board members shall be advisory only. Committees established by the Board shall be either standing committees or temporary ad hoc advisory committees. Each duly established committee may establish any standing or ad hoc committees determined to be appropriate or necessary. The duties and authority of all committees shall be subject to the approval and direction of the Board.

#### Section 2. Executive Committee

Upon the Authority's membership consisting of nine or more members, the Board shall establish an Executive Committee consisting of a smaller number of Directors. 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.

### Section 3. Appointment to Standing Committees

For standing committees, the Chair shall nominate committee members, subject to approval by a majority vote of the Board. If the Board fails to approve the Chair's nomination(s) to a standing committee, the Board may entertain a motion for the appointment of committee members.

The Executive Committee, if established, shall also be a Standing Committee. Other committees composed of Board members with continuing subject matter jurisdiction, or having a meeting schedule fixed by resolution or formal action of the Board, shall also be standing committees of the Board.

### Section 4. Committee Voting

Action by a committee on all matters shall require an affirmative vote of a majority of the members of the committee who are present at the meeting. A Voting Shares Vote does not apply to committee voting.

### Section 5. Alternate Directors in Standing Committees

In the event a member of a standing committee is a regular Director who is unavailable to attend a duly noticed meeting of that committee, the alternate Director representing the same Member Agency as the absent Director may attend and, if applicable, vote in the committee meeting in place of the regular Director. The alternate Director may also chair the committee and fully participate in discussion and debate during meetings. Notwithstanding the foregoing, this section shall not apply to the Executive Committee.

### Section 6. Removal of Committee Members

The Board may remove a committee member from a committee, with or without cause, by a majority vote of the Board.

### Section 7. Ad Hoc Committees

The Board may establish temporary ad hoc advisory committees that: (a) are composed of less than a quorum of the Board, (b) have no continuing subject matter jurisdiction, and (c) have no meeting schedule fixed by resolution or formal action of the Board. The Chair shall appoint the members of such ad hoc committees.

## **ARTICLE VIII CHIEF EXECUTIVE OFFICER**

### Section 1. Duties.

The Chief Executive Officer shall be the chief administrative officer of the Authority responsible for the day-to-day operation and management of the Authority. 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.

Section 2. Contracts.

The Chief Executive Officer is authorized to contract and execute on behalf of the Authority all contracts in accordance with Authority procurement and risk management policies and other delegations of authority by the Board.

**ARTICLE IX**  
**DEBTS, LIABILITIES AND OBLIGATIONS**

As provided in Section 5.7 of the JPA Agreement, and subject to the provisions of Section 6.3 of the JPA Agreement, the debts, liabilities and obligations of the Authority shall not be debts, liabilities or obligations of the individual Member Agencies unless the governing board of a Member Agency agrees in writing to assume any of the debts, liabilities, or obligations of the Authority.

**ARTICLE X**  
**AMENDMENTS**

Section 1. General Requirements

In accordance with Sections 3.9.4.1 and 3.9.4.3 of the JPA Agreement, the Board may adopt amendments to the JPA Agreement and these Bylaws by a two-thirds vote following 30 days' advance written notice to the Member Agencies. This Article provides further procedures concerning the Authority's consideration and approval of amendments to the JPA Agreement and these Bylaws.

Section 2. Initial Consideration; Notice to Member Agencies

The Board shall consider proposed amendments to the JPA Agreement or these Bylaws at an open and public meeting of the Board. Following such consideration, the Board may, by majority vote, direct the Chief Executive Officer to provide written notice of the proposed amendment(s) to the Member Agencies in any manner permitted under the JPA Agreement.

Section 3. Adoption of Amendments

At a Board meeting held at least 30 days after such notices have been provided, the Board may consider adoption of the proposed amendment(s) to the JPA Agreement or these Bylaws, which shall require a two-thirds vote of the Board. The Authority shall provide prompt written notice to all Member Agencies of the action taken and enclose the adopted or modified document(s).

**RESOLUTION NO. 2023-\_\_**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF  
ORANGE COUNTY POWER AUTHORITY  
APPOINTING THE SECRETARY**

A. Orange County Power Authority (“OCA”) is a joint powers authority established on November 20, 2020, for the purpose of implementing a community choice aggregation program under Public Utilities Code Section 366.2.0.

A. The Board of Directors of OCA desires to appoint a Secretary to perform the various administrative and other tasks necessary to conduct the Board’s and OCA’s affairs pursuant to OCA’s Joint Powers Agreement and applicable law.

B. Pursuant to Section 3.10.2 of the OCA Joint Powers Agreement, the Board shall appoint a qualified person who is not on the Board to serve as Secretary.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF  
ORANGE COUNTY POWER AUTHORITY, AS FOLLOWS:**

1. Pursuant to Section 3.10.2 of the OCA Joint Powers Agreement, the Board hereby appoints Pat Jacquez-Nares to serve as Secretary. Ms. Jacquez-Nares will serve as Secretary until the earlier of: (a) the end of her employment by OCA, (b) her resignation as Secretary, or (c) until removed or replaced as Secretary by the Board.

2. This resolution shall take effect immediately upon its adoption.

**ADOPTED AND APPROVED** by the Board of Directors of Orange County Power Authority on this 17th day of May 2023.

ATTEST:

\_\_\_\_\_  
Chair, Board of Directors  
Orange County Power Authority

\_\_\_\_\_  
Clerk, Board of Directors  
Orange County Power Authority

AYES: \_\_\_\_\_ NAYS: \_\_\_\_\_ ABSENT: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_



**ORANGE COUNTY POWER AUTHORITY**  
**Staff Report – Item 10.4**

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To: Orange County Power Authority Board of Directors

From: Joe Mosca, Director of Communications and External Affairs

Subject: MARKETING, COMMUNICATIONS, STRATEGY, PUBLIC  
ENGAGEMENT, DIGITAL AND GRAPHIC DESIGN CONTRACT

Date: May 17, 2023

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**RECOMMENDED ACTION**

1. Approve Contract with Reveille for Marketing, Communications, Strategy, Public Engagement, Digital, and Graphic Design
2. Authorize the Chief Executive Officer or delegated staff to negotiate, finalize, and execute contract for Marketing, Communications, Strategy, Public Engagement, Digital, and Graphic Design

**BACKGROUND**

In March 2021, Orange County Power Authority (OCPA) conducted a Request for Qualifications (RFQ) for Marketing, Communications, Strategy, Public Education, and Digital and Graphic Design, which resulted in a contract being awarded to Reveille, Inc. in April 2021. In October 2021, the contract with Reveille, Inc. was amended to extend the term of the agreement until June 30, 2022. In April 2022, OCPA executed a contract with Reveille, Inc. to provide Marketing, Communications, Strategy, Public Education, and Digital and Graphic Design services through February 2024.

OCPA launched commercial customers in its original four member agencies (Buena Park, Fullerton, Huntington Beach, and Irvine) in April of 2022. In October of 2022, OCPA launched its residential customers.

In 2021 and 2022, OCPA was primarily focused on ensuring a smooth transition for its customers from Southern California Edison (“SCE”) to OPCA service and compliance with all regulatory requirements. Toward the middle to end of 2022, OCPA found itself responding to a myriad of claims ranging from a lack of transparency to mismanagement, which was not previously anticipated.

Looking toward the future, OCPA is no longer a startup, but rather a fully functioning public agency. It is a public agency that needs to begin raising awareness of its brand and increasing trust in that brand. OCPA staff presented to the Board, at its meeting on February 15, 2023, an item on the Development of a Broad-Based Marketing, Communications, and Public Outreach Program. Consistent with Board feedback on this approach, OCPA released a Request for Proposal (RFP) for Marketing, Communications, Strategy, Public Engagement, Digital, and Graphic Design.

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**ANALYSIS AND DISCUSSION**

On March 7, 2023, Orange County Power Authority (OCPA) released a Request for Proposal (RFP) for Marketing, Communications, Strategy, Public Engagement, Digital, and Graphic Design to develop, enhance, implement and maintain a multi-faceted plan for building program awareness, engaging OCPA residential, commercial, industrial customers, and supporting the program website and design needs, promoting OCPA's 100% renewable program and other produce offerings. Efforts in this service category are intended to build brand and program awareness, minimize customer opt-outs, maximize opt-ups to OCPA's 100% renewable product, and set a framework for the development of long-term community engagement for OCPA.

OCPA received three bids in response to this RFP. The three firms who submitted proposals for this RFP were: (1) Reveille, (2) WeTheCreative, and (3) Wicked Bionic.

The review committee, consisting of OCPA staff, a member agency staff member, and a staff member from CalCCA, graded each firm on (1) experience in the areas identified in the scope of services, qualifications and experience of staff, and previous CCA/Energy experience, (2) proposers' ideas, plans and approach to working with OCPA, the community, key stakeholders and customers, (3) proposers' demonstrated expertise with multilingual and multicultural communications, and (4) commercial terms (price) and compliance with OCPA Professional Services Agreement.

As part of the recommendations from the California State Auditor, the scoring of the RFP was conducted in two phases. The first phase included all aspects of the scoring excluding price. The breakdown of the average scores without price included can be seen below.

<b>Proposers</b>	<b>Technical Evaluation Points</b>
	<b>Average</b>
Vendor 1 - Reveille	<b>3.5</b>
Vendor 2 - WeTheCreative	<b>2.2</b>
Vendor 3 - Wicked Bionic	<b>3.3</b>

Reveille was the top scorer with an average score of 3.5 out of 4. Second place was Wicked Bionic with an average score of 3.3 and WeTheCreative was third with an average score of 2.2. Three out of the four evaluators ranked Reveille as the top firm.

Pricing was scored independently from the technical evaluation per the recommendation from the State Auditor.

Pricing was scored in the table below.

<b>Proposers</b>	<b>Cost Evaluation Points</b>
Vendor 1 - Reveille	0.60
Vendor 2 - WeTheCreative	1.00
Vendor 3 - Wicked Bionic	0.80

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WeTheCreative had the lowest Cost, followed by Wicked Bionic, followed by Reveille.

Pricings scores are out of 1 point possible (20% of the total scoring criteria)

A summary of the scoring with the technical and cost evaluations combined can be seen below.

Vendor	AVERAGE
Reveille	<b>4.13</b>
WeTheCreative	<b>3.21</b>
Wicked Bionic	<b>4.10</b>

Reveille was the top scorer with an average score of 4.13 out of 5. Second place was Wicked Bionic placed second with an average score of 4.10 and WeTheCreative was third with an average score of 3.21. A detailed breakdown of the scoring is on file with OCPA.

After careful consideration of the firms and alignment with OCPA's goals and objectives, Staff is recommending the Board select Reveille to provide marketing, communications, strategy, public engagement, digital, and graphic design services.

The estimated total for marketing, communications, strategy, public engagement, digital, and graphic design services ranges from \$1,553,350 to \$1,683,850 / per year. During contract negotiations, OCPA staff will continue to refine the costs, especially as it relates to paid advertising costs.

The services provided are broken down into the following categories:

- Research – tracking/market-specific surveys in English, Spanish, Chinese, Korean and Vietnamese and 2-4 focus groups
- Creative and Content Development – newsletters, brochures, direct mail, advertisements, and presentations
- Social Media Content and Community Engagement
- Web Design and Copyright – redesign of OCPA website, content updates, new page designs, and consultant and strategy
- Blog Content – content strategy and copywriting
- Community Outreach and Stakeholder Engagement – strategic oversight of Speakers' Bureau scheduling and community event preparation
- Multicultural Outreach – stakeholder and media
- Advertising Planning and Trafficking
- Advertising Concepts, Design and Advertisement Production
- Media Relations – press releases, coordinating interviews, and fielding media inquiries
- Photography – headshots and campaign photography
- Video Production
- Crisis Communications and Issue Management Plan
- YouTube Campaign
- Sustainably Speaking – video series
- Advertising – Paid Media

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- Print Media
- Digital Media
- Broadcast – streaming (city specific)
- Bus Shelters
- City Posters
- Retail Banners
- Movie Theaters
- Digital Advertisement

**FISCAL IMPACT**

The funding for this contract will be budgeted in the proposed FY2023/2024 budget. The contract will have a not-to-exceed amount of \$1,499,843 / per year and the term will be for two years with an option for three one-year extensions (*see Attachment A: Draft Contract*).

**ATTACHMENTS**

Attachment A: Draft Contract

## **ORANGE COUNTY POWER AUTHORITY PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement (“**Agreement**”) is made and entered into on [INSERT DATE], 2023, by and between ORANGE COUNTY POWER AUTHORITY, a California joint powers authority (“**Authority**”) and REVEILLE, INC., a California Corporation (“**Consultant**”). Authority and Consultant are sometimes individually referred to as “**Party**” and collectively as “**Parties**.”

### **RECITALS**

A. Consultant desires to perform and assume responsibility for the provision of certain professional services required by Authority on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing marketing, communications, strategy, public engagement, digital, and graphic design services, is licensed in the State of California, and is familiar with the plans of Authority.

B. Authority desires to engage Consultant to render such professional services for the design and implementation of a public engagement strategy (“**Project**”) as set forth in this Agreement.

### **AGREEMENT**

#### **1. Scope of Services and Term.**

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

1.2 Term. The term of this Agreement shall be from July 1, 2023 to June 30, 2025, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines. The term may be extended for three additional one-year terms.

#### **2. Responsibilities of Consultant.**

2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Authority retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees

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

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

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

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

- Brenda Springer
- Brenda Deeley
- Scott Burris
- Jenny Wedge
- Olivia Valdez
- Janelle Kruly
- Hailley Baker
- Grace Granados

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

2.6 Consultant's Representative. Consultant hereby designates **Brenda Springer**, or his or her designee, to act as its Representative for the performance of this Agreement ("**Consultant's Representative**"). Consultant's Representative shall have full authority to

represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his or her best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

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

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

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

2.10 Insurance.

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

secured all insurance required under this section.

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

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

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

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

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

(A) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) Bodily Injury and Property Damage; (2) Personal Injury/Advertising Injury; (3) Premises/Operations Liability; (4) Products/Completed Operations Liability; (5) Aggregate Limits



that Apply per Project; (6) Explosion, Collapse and Underground (UCX) exclusion deleted; (7) Contractual Liability with respect to this Agreement; (8) Broad Form Property Damage; and (9) Independent Consultants Coverage.

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

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

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

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

(C) Workers’ Compensation and Employers Liability Coverage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **3. Fees and Payments.**

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

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

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

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

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

## 5. **General Provisions.**

### 5.1 Termination of Agreement.

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

5.1.2 Effect of Termination. If this Agreement is terminated as provided herein,

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

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

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

**Consultant:**

**Authority:**

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

5.3 Ownership of Materials and Confidentiality.

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

5.3.2 Intellectual Property. In addition, Authority shall have and retain all right, title and interest (including copyright, patent, trade secret and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible

medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media (“**Intellectual Property**”) prepared or developed by or on behalf of Consultant under this Agreement as well as any other such Intellectual Property prepared or developed by or on behalf of Consultant under this Agreement.

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

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

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

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

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

5.3.4 Infringement Indemnification. Consultant shall defend, indemnify and hold Authority, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person

or entity in consequence of the use on the Project by Authority of the Documents & Data, including any method, process, product, or concept specified or depicted.

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

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

5.6 Indemnification.

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

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

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

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

5.10 Authority's Right to Employ Other Consultants. Authority reserves right to employ

other consultants in connection with this Project.

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

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

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

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

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

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

5.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

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



or anticipated material benefit arising therefrom.

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

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

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

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

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

**[SIGNATURES ON FOLLOWING PAGE]**

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

**ORANGE COUNTY POWER  
AUTHORITY**

**REVEILLE, INC**

By : \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By : \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary, Authority Board of Directors

APPROVED AS TO FORM:

\_\_\_\_\_  
General Counsel

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

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

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

## **EXHIBIT A**

### **SCOPE OF SERVICES**

Detailed tasks in this service category include but are not limited to the following:

#### **1. Agency Branding, Design, Messaging, and Identity:**

- a. Working with staff and key leadership, develop core messaging for use on the website, in marketing materials, and for community presentations.
- b. Conduct research to test the impact and effectiveness of messaging and to guide development of messaging, including surveys, polling, and focus groups.
- c. Refresh and maintain a multi-functional, multi-lingual website that includes a rate calculator, ability to opt-out of the program and other interactive features that allow customers to easily understand their energy costs and environmental impact of their participation.
- d. Develop and implement a social media strategy that includes the posting of compelling content, responding to, or reposting people who share your content, and engaging with the most effective social media platforms available, etc.
- e. Develop/update program collateral including FAQs, program brochures, fact sheets, event give aways, and power point templates as needed.
- f. If budget allows, develop one or more short informational videos for use on OCPA's website, social media and at community meetings.

#### **2. Web Design, Content Development, and Maintenance:**

- a. Assist with content update and redesign of OCPA's current website ([www.ocpower.org](http://www.ocpower.org)) including translation into eight (8) languages besides English (Spanish, Chinese, Vietnamese, Korean, Japanese, Arabic, Farsi, and Tagalog) and integration of opt-out/opt-up capabilities and other interactive features.
- b. Assist with the creation of exceptionally professional, clean, and compelling new pages for OCPA that incorporate best practices in user interface, user experience, and Americans with Disabilities (ADA) compliance.
- c. Demonstrate superior skills in developing functionality within the website to support the needs of the programs and general services of OCPA, such as but not limited to pop-up windows, embedded forms, and dynamic layouts.
- d. Provide and follow a clearly defined process for creation and execution of new web content and features that includes wireframes, mock-ups, user-acceptance testing, final review by client in pre-production environment, and notification of client directly after code release.

- e. Assist in analyzing e website analytics and recommend ways to improve metrics.
- f. Assist with providing direction and/or instruction to OCPA staff on basic website features for staff to self-serve for content updates and other needs.

### **3. Community Outreach and Stakeholder Engagement:**

- a. Develop a communications and outreach plan for staff and Board approval detailing the methods and timing of various local communications strategies including the integration of a media and advertising campaign as outlined below.
- b. At the direction of OCPA staff, work with member cities to support local stakeholder and public outreach which may include but is not limited to meetings with key stakeholder groups, public workshops/webinars, local presentations, event tabling, newsletter articles, and other key outreach/engagement activities. Team members with varied cultural backgrounds and multi-lingual skills will be a key component of this effort.
- c. Develop and maintain an OCPA list-serve to facilitate outreach/engagement activities. Refine/expand use of regular e-newsletters and information blasts to OCPA's list-serve and other local communication outlets.

### **4. Marketing and Advertising Campaign:**

- a. Develop multi-lingual (English, Spanish, Chinese, Vietnamese, Korean, Farsi, Japanese, Arabic, and Tagalog) and multi-cultural advertising campaign to raise public awareness of OCPA and its offerings; this will include both paid and earned media, print and digital, in a variety of mediums which could include local newspapers, on-line and social media , radio spots, billboards, bus backs/bus shelters, and other strategies to effectively reach future OCPA customers in a positive way
- b. Manage and conduct press outreach – schedule editorial board meetings, draft press releases, op-eds and news articles.
- c. Develop visual look, support content, and maintain a regular social media presence for OCPA on Facebook, Twitter, Instagram, Nextdoor, etc.

### **5. Media Relations and Public Affairs**

- a. The successful contractor (or subcontractor within a team) will have an established and respected network of key influencer and press relationships within the Orange County region.
- b. Develop and maintain a database for OCPA of local and regional press contacts.

- c. Develop a press kit, draft press releases as needed, and develop a plan for regular press engagement and positive earned media.
- d. Provide feedback and strategy support for OCPA leadership on public affairs and media relations related to CCA and OCPA.

**6. Project Management/Performance Metrics:**

- a. Participate in content and design meetings with OCPA staff, including weekly or bi-weekly project calls.
- b. Provide presentations and project updates to OCPA Board and leadership as requested.
- c. Provide flexible capacity to complete multiple design projects simultaneously during busy periods, and ability to rapidly ramp up or down the capacity dedicated to this contract to meet fluctuating client needs.
- d. Work with staff to develop elements of performance metrics.

## **EXHIBIT B**

### **COMPENSATION BILLING RATES**

#### **RATE CARD**

<b>TITLE</b>	<b>HOURLY RATE</b>
Assistant	\$75
Account Coordinator	\$150
Account Executive	\$175
Account Manager	\$200
Design/Copywriting	\$225
Strategy Consultants	\$225
Senior Management	\$250
Principal	\$300

#### **BUDGET ESTIMATES**

<b>Item</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Total</b>
Reveille Fees	\$ 619,000	\$ 619,000	\$ 1,238,000
Hard Costs (research, photography, and video production)	\$ 298,900	\$ 298,900	\$ 597,800
Paid Media	\$ 436,943	\$ 436,943	\$ 873,886
Optional Projects and contingency	\$ 145,000	\$ 145,000	\$ 290,000
<b>Total</b>	<b>\$ 1,499,843</b>	<b>\$ 1,499,843</b>	<b>\$ 2,999,686</b>

**Consultant shall be paid an amount not to exceed \$2,999,686 for the term of the agreement**

**ORANGE COUNTY POWER AUTHORITY**  
**Staff Report – Item 10.5**

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To: Orange County Power Authority Board of Directors

From: Joe Mosca, Director of Communications and External Affairs  
Steven Halligan, Management Analyst  
Patty Cruz, Energy Programs Analyst

Subject: ENERGY EFFICIENCY PROGRAM UPDATE

Date: May 17, 2023

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**RECOMMENDED ACTIONS**

1. Receive program update
2. Approve Bright Future Grant Program Guidelines and authorize CEO to award and execute grant agreements for Bright Future Grants

**BACKGROUND**

On June 29, 2022 the Orange County Power Authority (OCPA) Board approved the Fiscal Year 2022-23 budget. This budget includes \$500,000 for the development of Energy Programs.

OCPA staff solicited feedback from the Community Advisory Committee (CAC) and public at multiple meetings to help determine the best use for the Energy Program funds. At the August 31, 2022 CAC meeting, The Energy Coalition (TEC) presented a wide range of Community Choice Aggregator (CCA) Energy Programs. These programs range in cost, benefits, implementation time, and funding source. The CAC members and public commented on programs that they thought would be most beneficial to their communities and requested additional information on six (6) programs.

On September 27, 2022 TEC presented additional information on those six programs to the CAC. The information on the programs included potential costs; implementation time; number of customers served; and benefits to the community, OCPA, and the environment. Feedback was received from both the CAC members and the public on the programs that had the greatest impact on benefiting the community.

At the November 9, 2022 CAC meeting, the CAC made a recommendation to staff and the OCPA Board that OCPA use the \$500,000 on two programs. The first program recommended, which would be allocated \$400,000, is a residential home energy program that includes financial assistance in obtaining smart home devices and home energy meters. It is estimated that this program will be available to over 7,000 OCPA customers. Exact items available, incentive amounts, and other criteria are currently being researched by staff.

The second program recommended, which would be allocated \$100,000, provides grants to non-profits, schools, and teachers for the creation of programming which promotes and educates the public and students on the benefits of Renewable Energy and OCPA. Exact eligibility criteria is currently being developed. It is estimated that five to ten grants will be awarded. The grants will be required to show measurable results. Grant criteria and details will be brought before the Board after being developed.

At the December 13, 2022 Board Meeting an update was given regarding the proposed allocation of the \$500,000 with \$400,000 being allocated to Smart Home Device Rebates and \$100,000 being allocated to Outreach Grants for Local Nonprofits and schools. In addition to the funding allocated, staff have been researching additional programs that will benefit our customers.

## **OVERVIEW**

Staff is providing an update on the status of several energy efficiency programs. The programs include: 1) a partnership with Los Angeles County for a grant application for the installation of Smart Level 2 EV Chargers through the Department of Energy (DOE) Grid Resilience and Innovation Grant; 2) an online marketplace where OCPA customers could receive Smart Home Energy devices at a greatly reduced price; 3) a mutual marketing agreement with OhmConnect; 4) a grant opportunity for local nonprofits and schools to conduct education and outreach regarding the benefits of renewable energy, programs offered by OCPA, and other clean energy program benefits; and 5) a SoCalREN program that provides financial incentives to cover up to 100% of the equipment and installation costs for eligible public sector heat pump water heater (HPWH) installations.

### **Department of Energy Grid Resilience and Innovation Grant Application Partnership with Los Angeles County**

As part of the Bipartisan Infrastructure Law, the Grid Deployment Office is administering a \$10.5 billion Grid Resilience and Innovation Partnerships (GRIP) Program on behalf of DOE to enhance grid flexibility and improve the resilience of the power system against growing threats of extreme weather and climate change.

These programs will accelerate the deployment of transformative projects that will help to ensure the reliability of the power sector's infrastructure, so all American communities have access to affordable, reliable, clean electricity anytime, anywhere.

In late February, OCPA met with Los Angeles County (LAC) regarding partnering with LAC and other communities on their application for the DOE GRIP. This partnership allows OCPA to potentially receive matching funds from the DOE for the installation of smart level 2 EV chargers. In early March a Letter of Commitment from OCPA was provided to LAC for their grant application.

OCPA has tentatively chosen to install EV chargers at the city hall buildings of Buena Park, Fullerton, Huntington Beach, and Irvine. If awarded the grant, the installation will occur prior to December 2028. OCPA has requested \$100,000 in matching funds for the installation of these



chargers. OCPA will look for other partners for the \$100,000 initial funding before utilizing internal funding sources. The initial funds can come from any non-federal source.

### **Smart Home Device Rebates**

On May 5, 2023, OCPA released a Request for Proposals (RFP) for online marketplace services for residential energy efficient products and smart home devices. This RFP has been released on BidnetDirect.com and OCPower.org. The deadline for submissions is May 22, 2023. Staff will evaluate proposals and make a recommendation to the Board at the June 21, 2023 meeting. This contract will be for up to \$400,000.

### **OhmConnect Partnership**

OhmConnect is a free online platform that helps users save energy and money by reducing their electricity usage during periods of high demand. OhmConnect sends notifications to users when there is a high demand for energy, usually during peak hours, and encourages them to reduce their energy consumption during that time. Users can earn points for their energy-saving efforts, which can be redeemed for cash or gift cards. By participating in OhmConnect, users not only save money on their electricity bills, but also contribute to a more sustainable energy system by reducing overall energy consumption.

OCPA plans on entering into a mutual marketing agreement with OhmConnect. This partnership will provide OCPA customers with the opportunity to receive rebates on smart home devices such as smart thermostats and then allow participants the ability to earn points and help reduce energy during peak times. A copy of the agreement is attached (Attachment A).

### **Outreach Grants for Local Nonprofits, Schools, and Educators**

OCPA is pleased to announce the launch of the Bright Futures Outreach Grant opportunity. This grant opportunity will allow local nonprofits, schools, and educators the opportunity to apply for grants in an amount ranging from \$5,000-\$20,000. These grants will be used to increase education and outreach to disadvantaged, multi-lingual, and other communities about utility bill discounts, programs, and a range of other clean energy program benefits. The grants will be awarded to organizations that have creative and effective approaches to promoting renewable energy education, particularly in underrepresented communities and through multi-lingual campaigns. The grant also prioritizes initiatives that bring multiple partners together to collaborate on renewable energy education. This grant opportunity is a unique chance for organizations to make a meaningful impact in their communities and create a brighter, more sustainable future for all. This opportunity will be publicized upon Board approval.

Additional information can be found on the attached flyer (Attachment B), application (Attachment C), and terms and conditions (Attachment D).

### **SoCalREN Heat Pump Water Heater Program**

In October 2021, the OCPA Board approved a Memorandum of Understanding with the Southern California Regional Energy Network (SoCalREN) to collaborate and partner on the creation and implementation of energy efficiency programs. SoCalREN helps cities and public

agencies design and implement energy efficiency programs that impact homes, businesses, and public facilities.

SoCalREN is now offering financial incentives to cover up to 100% of the equipment and installation costs (for facilities in underserved areas and up to 80% for all other facilities) for eligible public sector heat pump water heater (HPWH) installations on a first-come, first-served basis. These supercharged incentives aim to highlight energy-efficient technology, make the electrification transition more affordable, and encourage agencies to take actions that will reduce their carbon footprint. Additional details can be found on the attached flyer (Attachment E).

## **ATTACHMENTS**

- A) OhmConnect Mutual Marketing Agreement
- B) Outreach Grant Flyer
- C) Outreach Grant Application
- D) Outreach Grant Terms and Conditions
- E) SoCalREN Heat Pump Water Heater Flyer



## Marketing Agreement

This Marketing Agreement (“**Agreement**”) is effective as of the date of last signature below (“**Effective Date**”) between OhmConnect, Inc., with its principal place of business at 371 3rd Street, 2nd Floor, Oakland, California 94607 (“**OhmConnect**”), and Orange County Power Authority, a California joint powers authority (“**Partner**”). OhmConnect and Partner wish to enter into a strategic marketing collaboration as described in the attached Schedule A. The parties agree as follows:

### SECTION 1 Definitions

“**Affiliate**” means any legal entity that owns, is owned by, or is commonly owned with a party. “**Own**” means having more than 50% ownership or the right to direct the management of the entity.

“**Confidential Information**” means any information that may be disclosed or made available by one party (“**Disclosing Party**”) to the other party (the “**Receiving Party**”) regarding business affairs, products and services, third-party confidential information and other sensitive or proprietary information designated or other identified as “confidential.”

“**Intellectual Property Rights**” means any patent, copyright, trade secret, trademark or other proprietary right.

“**Personal Information**” means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

### SECTION 2 Collaboration

**2.1 Marketing Activities.** OhmConnect and Partner will perform the marketing activities set forth in **Schedule A (“Marketing Activities”)**. Each party will share information and cooperate with the other to meet the marketing obligations in this Agreement. The parties will each appoint a contact person to be its primary contact for the cooperation contemplated by this Agreement. Neither party will (nor will it authorize or assist any third party to) engage in misleading or deceptive advertising or trade practices, represent to customers or others that either party in any way guarantees the other’s performance, or make any representations, warranties, or covenants on the other’s behalf.

### SECTION 3 License Grants

**3.1 Materials License.** Each party hereby grants to the other a nonexclusive, non-sublicensable, non-transferrable, royalty-free, fully paid-up license under all its Intellectual Property Rights to use and reproduce any materials shared by the other as part of the Marketing Activities.

**3.2 Trademark License.** Each party grants to the other a nonexclusive, non-sublicensable, non-transferable license to use the other party’s trademarks in connection with the Marketing Activities. Each party’s use of the other party’s trademarks shall conform with trademark usage guidelines provided by the party that is owner of the trademark.

**3.3 Ownership.** Each party will retain all rights in and to its own intellectual property. Except as otherwise set forth herein, this Agreement does not grant either party (by implication, estoppel or otherwise) any right, title, interest, or license, in the other party's Intellectual Property Rights. Each party reserves all rights not expressly granted in this Agreement. The parties do not intend to jointly develop or create any Intellectual Property Rights in connection with this Agreement.

**3.4 Privacy Policy.** Each party will comply with all applicable privacy laws, OCPA's Customer Data Confidentiality Policy (to the extent applicable in relation to this Agreement), and maintain a privacy policy on how Personal Information is collected, used, stored, secured and disclosed as a result of the Marketing Activities, including the controls that individuals have over the use and sharing of their Personal Information and how they may access their Personal Information.

## **SECTION 4 Term**

**4.1 Term.** The term of this Agreement begins on the Effective Date and shall continue for a period of one (1) year ("**Term**"). The Agreement will automatically renew for additional one (1) year terms on each applicable anniversary of the Effective Date unless either party provides written notice of its intent not to renew at least thirty (30) days prior to the next renewal date.

**4.2 Termination.** Either party may terminate this Agreement for the other party's:

- (1) Material breach of this Agreement that is not cured within thirty (30) days after the nonbreaching party provides written notice of the breach;
- (2) Insolvency, or the commencement by or against a party of a case or proceeding under any bankruptcy, reorganization, insolvency or moratorium law, or any other applicable law for the relief of debtors; or
- (3) Liquidation or dissolution, or the sale, lease or other disposition of all or a substantial part of a party's business or assets.

In addition, either party may terminate this Agreement without cause upon sixty (60) days' written notice to the other party.

**4.3 Effect of Termination.** Following termination, each party will promptly either return all originals, copies and reproductions of the other party's materials and Confidential Information or certify the destruction of the same upon a party's request.

**4.4 Survival.** All provisions of this Agreement that may reasonably be interpreted or construed as surviving the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.

## **SECTION 5 Confidentiality**

**5.1 Treatment of Confidential Information.** All disclosures between the parties under this Agreement are governed by the OhmConnect Non-Disclosure Agreement between the parties dated December 16, 2022 ("**NDA**").

**5.2 Feedback.** Either party may provide suggestions, comments or other feedback to the other party with respect to products and services. Feedback is voluntary and, even if designated as confidential, the party receiving feedback may use it for any purpose without obligation of any kind. The party receiving feedback will not disclose the source of feedback without the consent of the party providing it. Unless the parties specifically agree in writing, feedback will not create any confidentiality obligation.

## **SECTION 6 Representations and Warranties; Disclaimers**

**6.1 Mutual.** Each party represents and warrants to the other that: (i) at all times during the Term it has and will have all requisite corporate power and authority to execute this Agreement, to perform its obligations, and to consummate the transactions contemplated hereby; (ii) neither is presently under, nor will either enter into, any agreement, commitment, understanding or other obligation, whether written or oral, that is inconsistent or in conflict with this Agreement; (iii) it will each comply with all applicable laws; (iv) it has all rights necessary to grant the other party the rights and licenses in this Agreement.

**7.2** EXCEPT FOR THE WARRANTIES IN SECTION 7.1, NEITHER PARTY MAKES ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH REGARD TO ANY OF ITS SERVICES, PRODUCTS OR OTHER INFORMATION FURNISHED UNDER THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY ARISING OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE).

## **SECTION 7 Limitation of Liability**

EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 9.1, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR: (A) ANY LOSS OF PROFIT, LOSS OF DATA, OR ANY OTHER INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES OF ANY KIND WHATSOEVER, WHETHER OR NOT IT WAS AWARE OF THE POSSIBILITY OF SUCH DAMAGES, SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN OR IF THE EXCLUSIVE REMEDIES STATED HEREIN FAIL OF THEIR ESSENTIAL PURPOSE; OR (B) ANY DIRECT DAMAGES IN EXCESS OF THE AMOUNTS PAID BY OHMCONNECT IN THE TWELVE MONTHS PRECEDING THE INCIDENT GIVING RISE TO THE LIABILITY.

## **SECTION 8 Indemnification**

**8.1 Claims.** Each party (the "**Indemnifying Party**") will, at its sole expense and the request of the other party, defend, hold harmless, and indemnify against any third-party claim (a "**Claim**") brought against such other party or such other party's Affiliates, directors, officers, employees, agents, licensees or independent contractors (each, an "**Indemnified Party**") to the extent that the Claim, if true, would constitute a breach of a warranty, representation or covenant made by the Indemnifying Party under this Agreement (collectively, the "**Indemnified Claims**").

**8.2 Claims Procedure.** The Indemnified Party must promptly notify the Indemnifying Party in writing of any Indemnified Claim and provide information regarding the nature of the action and relief sought; reasonably cooperate with the Indemnifying Party at the Indemnifying Party's expense for the defense of the Indemnified Claim. The Indemnifying Party will take control and conduct the defense of such Indemnified Claims, all related proceedings or negotiations, and the settlement of any such Indemnified Claim. The Indemnifying Party will employ counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party may employ separate counsel at its own cost. The Indemnifying Party must not settle any Indemnified Claim on the Indemnified Party's behalf without first obtaining written consent, which will not be unreasonably withheld. The Indemnifying Party will pay all third-party liabilities, losses, damages, costs, and expenses actually awarded by a court or agreed to in settlement resulting from the Indemnified Claim. No settlement of an Indemnified Claim that involves a remedy other than payment of money by the Indemnifying Party shall be agreed to and entered without the consent of the Indemnified Party, which consent shall not be unreasonably withheld or delayed.

**8.3 Entire Liability.** This Section 9 sets forth the entire liability of each party with respect to Indemnified Claims governed by this Section 9.

## SECTION 9 Notices

Notices may be provided either by electronic or physical mail or delivery. The person(s) identified on the first page of this Agreement will receive notices on behalf of their respective party. Each party may change the persons to whom notices will be sent by giving notice to the other. Notices will be effective for all purposes on actual receipt when physically delivered or on acknowledgment of receipt if sent by electronic mail. Notices will be sent to:

If to OhmConnect:

OhmConnect, Inc.

Attn: General Counsel

371 3rd Street, 2nd Floor

Oakland, CA 94607

generalcounsel@ohmconnect.com

If to Partner:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## SECTION 10 Publicity

Neither party will issue any press releases or make any other public announcements that relate to the parties' relationship, the Marketing Activities, or this Agreement, without prior written approval from the other party.

## SECTION 11 General Terms

**11.1 Jurisdiction and Governing Applicable law.** The applicable laws of the State of California govern this Agreement. If federal jurisdiction exists, the parties consent to exclusive jurisdiction and venue in the federal courts in Alameda County, California. If not, the parties consent to exclusive jurisdiction and venue in the Superior Court of California in the County of Alameda.

**11.2 Assignment.** Neither party may assign this Agreement, in whole or in part, without other party's prior written consent. Any attempted assignment in violation of this section will be void. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective permitted successors and assigns.

**11.3 Force Majeure Event.** Neither party is liable for failure to perform any obligation under this Agreement to the extent such failure is caused by a force majeure event including natural disasters, war, civil disturbance, government action, strikes, and other causes beyond the party's reasonable control. The party affected by the force majeure event will provide prompt notice to the other party and will use its best efforts to resume performance. Obligations not performed due to a force majeure event will be performed as soon as reasonably possible when the force majeure event ends. If the force majeure event continues for a period of more than 30 days, the other party may terminate this Agreement on written notice.

**11.4 Independent Contractors.** The parties are independent contractors. This Agreement does not create an employer-employee relationship, partnership, joint venture or agency relationship and does not create a franchise. Neither party nor any of its representatives may make any representation, warranty or promise on the other party's behalf.

**11.5 Miscellaneous.** This Agreement is nonexclusive. It will not be interpreted to limit either party's right to enter into agreements with other third parties for the same or similar activities, subject to each party's compliance with its confidentiality obligations herein. Except as expressly set forth in this Agreement, each party will pay for its own costs and expenses associated with this Agreement unless otherwise agreed in writing. If any court of competent jurisdiction determines that any provision of this Agreement is illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect. A party's delay or failure to exercise any right or remedy will not result in a waiver of that or any other right or remedy. No waiver will be binding unless in writing and signed by the waiving party.

**11.6 Entire Agreement.** This Agreement (including any Schedules and the NDA) is the entire agreement between the parties regarding its subject matter. It replaces all prior agreements, communications and representations between the parties regarding its subject matter. This Agreement can be changed only by an amendment signed by both parties; provided that the Schedules may be modified and updated upon mutual agreement of the parties via email. If this Agreement and any Schedule conflict, the Agreement will control.

**11.7 Execution; Counterparts.** This Agreement is not binding until duly executed by both parties. The parties may execute this Agreement in counterparts. Each counterpart will be deemed an original and all counterparts will constitute one agreement binding both parties. Facsimile signatures will also be considered binding.

The parties have agreed to this Marketing Agreement as of the Effective Date.

**OHMCONNECT, INC.**

**ORANGE COUNTY POWER AUTHORITY**

By \_\_\_\_\_

By \_\_\_\_\_

Name \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Address:

Address:

371 3rd Street  
2nd Floor  
Oakland, California 94607

\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **Schedule A**

### **Description of Marketing Activities**

**Partner:** Orange County Power Authority (OCPA)

**Purpose:** Support efforts to drive OhmConnect enrollments

**Obligations:**

Partner Obligations

The following list outlines co-marketing activities to be completed through Partner channels.

- Email: Partner sends email outreach with OhmConnect marketing materials to all customers in eligible markets. Emails are sent a minimum of once a quarter on an agreed upon schedule between both parties.
- Social Media: Partner will post a minimum of 3 times per quarter on top 1-2 social media channels
- Newsletter: Partner will include OhmConnect content in monthly newsletter
- City Leadership & Partner Groups: Engage city council members, municipal leaders, and affiliated organizations to email or share social media posts to members about OhmConnect
- Additional Channels: Engage with additional marketing channels as identified and agreed upon

OhmConnect Obligations

- Marketing Support: Providing copy, graphics, schedules and all other identified marketing support as reasonable and agreed upon
- Customer Activation: Ship devices, manage customer support, and engage customers in demand response events
- Customer Promotion: OhmConnect will provide new customers through this channel with a special customer promotion. Customer Promotions may change periodically, but typically take the form of a cash/gift card offer, discount on a smart device, etc.
- Customer Support: Field customer inquiries delivered to OhmConnect or Partner on OhmConnect and related components.
- Other marketing/programmatic activities as agreed upon



# BUILDING A BRIGHTER FUTURE, TOGETHER.

Now accepting grant applications from non-profits,  
schools, & educators for the Bright Futures Grant.

The Bright Futures Grant is a funding opportunity aimed at supporting local non-profits, schools, and educators in their efforts to educate communities on the benefits of renewable energy and Community Choice Aggregation (CCA). The application period runs from 5/17/23 - 6/9/23 with grants being awarded 6/30/23.

Grants ranging from \$5,000 to \$20,000 will be awarded to organizations that have creative and effective approaches to promoting renewable energy education, particularly in underrepresented communities and through multi-lingual campaigns. The grant also prioritizes initiatives that bring multiple partners together to collaborate on renewable energy education.

This grant opportunity is a unique chance for organizations to make a meaningful impact in their communities and create a brighter, more sustainable future for all.

## WHAT IS CCA?

Community choice energy is new to Orange County, but it's not new to California. Assembly Bill 117 was passed in 2002 to establish Community Choice Aggregation, also known as community choice energy, which allows communities to join together to give Californians the opportunity to choose their electric provider and the source of their electricity. CCAs are succeeding all over the state, with 23 programs already providing reliable, affordable and clean energy to local customers and delivering innovative reinvestment programs that benefit local needs and state Climate Action Goals.

## GRANT ELIGIBILITY CRITERIA:

- Non-profits, schools, and educators based in an Orange County Power Authority member agency community (Buena Park, Fullerton, Huntington Beach and Irvine)
- Focus on educating the community on the benefits of renewable energy and Community Choice Aggregation
- Target underrepresented communities and multi-lingual campaigns
- Must demonstrate clear goals and objectives, a budget, and a plan for sustainability
- Partnerships with multiple agencies is highly desired, but not required
- Applicant organization must be an Orange County Power Authority customer



## **Renewable Energy Education Grants (Bright Futures Grant)**

The Bright Futures Grant is a funding opportunity aimed at supporting local non-profits, schools, and educators in their efforts to educate communities on the benefits of renewable energy and Community Choice Aggregation. With a budget of \$100,000, grants ranging from \$5,000 to \$20,000 will be awarded to organizations that have creative and effective approaches to promoting renewable energy education, particularly in underrepresented communities and through multi-lingual campaigns. The grant also prioritizes initiatives that bring multiple partners together to collaborate on renewable energy education. This grant opportunity is a unique chance for organizations to make a meaningful impact in their communities and create a brighter, more sustainable future for all.

### **Plan for Administering Grants:**

#### **1. Criteria to Qualify:**

- Non-profits, schools, and educators based in a member agency community
- Focus on educating the community on the benefits of renewable energy and Community Choice Aggregation
- Target underrepresented communities and multi-lingual campaigns
- Must demonstrate clear goals and objectives, a budget, and a plan for sustainability
- Partnerships with multiple agencies is highly desired but not required
- Orange County Power Authority Customer

#### **2. Timeline:**

- Call for grant applications: May 17 - June 9
- Review of applications and selection of grant recipients: June 9 - June 30
- Awarding of grants: June 30
- Grant reporting and evaluation: November 1

#### **3. Terms and Conditions:**

- Grants range from \$5,000 to \$20,000
- Total budget for grants is \$100,000
- Recipients must execute a Grant Agreement with OCPA
- Recipients must provide regular progress reports and final evaluation of the project
- Grant funds must be used for the purpose stated in the grant application and within the specified timeline
- Unused funds must be returned to the organization administering the grants
- Recipients must comply with all applicable laws and regulations
- Any publicity regarding the grant must acknowledge the funding source

Note: This plan can be revised based on the specifics of the organization administering the grants and other relevant factors.

## **Application for Renewable Energy Education Grants**

### **I. Introduction:**

- A. Organization Name:
- B. Contact Person:
- C. Contact Information:

### **II. Project Summary:**

- A. Project Title:
- B. Project Description: (Briefly describe the project and its goals and objectives)
- C. Target Audience: (Who will the project target and why?)
- D. Timeline: (Provide a timeline for the project)

### **III. Goals and Objectives:**

- A. What specific outcomes do you hope to achieve with this project?
- B. How will you measure the success of your project?

### **IV. Budget:**

- A. Project Budget: (Provide a detailed budget for the project, including all sources of funding)
- B. Grant Requested: (State the amount of grant funding being requested)

### **V. Sustainability:**

- A. How will the project continue after the grant period ends?
- B. What steps will you take to ensure the sustainability of the project?

### **VI. Partnerships:**

- A. List any partners involved in the project and describe their role.

### **VII. Reporting:**

- A. Describe how you will provide regular progress reports and a final evaluation of the project.

### **VIII. Signature:**

- A. Signature of authorized representative of the organization:
- B. Date:

Note: This application template can be adjusted based on the specifics of the organization administering the grants and other relevant factors.

## **Scoring Criteria:**

### Scoring Criteria/Rubric for Renewable Energy Education Grant Applications:

#### Project Summary (30 points):

- A. Clarity of project description (10 points)
- B. Relevance of project to target audience (10 points)
- C. Feasibility of timeline (10 points)

#### Goals and Objectives (20 points):

- A. Clarity of goals and objectives (10 points)
- B. Measurable outcomes (10 points)

#### Budget (20 points):

- A. Reasonableness of budget (10 points)
- B. Appropriate use of grant funds (10 points)

#### Sustainability (15 points):

- A. Feasibility of project continuation after grant period (7.5 points)
- B. Adequacy of steps to ensure sustainability (7.5 points)

#### Partnerships (15 points):

- A. Relevance of partnerships (7.5 points)
- B. Contribution of partnerships to project success (7.5 points)

#### Reporting (15 points):

- A. Adequacy of reporting plan (7.5 points)
- B. Appropriate evaluation measures (7.5 points)

Total Points: 100

Note: This scoring criteria/rubric can be adjusted based on the specifics of the organization administering the grants and other relevant factors.

**ORANGE COUNTY POWER AUTHORITY  
BRIGHT FUTURES OUTREACH GRANT PROGRAM**

**AGREEMENT FOR GRANT FUNDS  
BETWEEN ORANGE COUNTY POWER AUTHORITY  
AND [ORGANIZATION NAME]**

**THIS AGREEMENT FOR GRANT FUNDS** (“Agreement”), made and entered into this [date], 20\_\_\_\_ by and between the **ORANGE COUNTY POWER AUTHORITY**, a California joint powers agency (herein referred to as “OCPA”), and **[ORGANIZATION NAME]**, a [state and type of incorporation/organization] (herein referred to as “Grantee”).

**WHEREAS**, Grantee is a [state and type of organization] supporting [identify target audience]; and

**WHEREAS**, Grantee is providing, or intends to provide, education and outreach to disadvantaged, multi-lingual, and other communities about utility bill discounts, programs, and a range of other clean energy program benefits; and

**WHEREAS**, OCPA chooses to provide a grant for the above-described services, which benefit OCPA and its customers;

**WHEREAS**, it is beneficial to OCPA and its customers that these services be provided;

**WHEREAS**, Grantee desires to provide to OCPA and its customers said services and is qualified by reason of experience, organization, preparation, staffing, and facilities to provide such services; and

**WHEREAS**, the OCPA Board of Directors approved the grant program and authorized the OCPA Chief Executive Officer to execute the Agreement on May 17, 2023.

**NOW, THEREFORE**, in consideration of the foregoing and the promises herein contained, OCPA and Grantee agree as follows:

**1. DESCRIPTION OF SERVICES AND GRANT CONDITIONS**

(a) The services to be performed by Grantee are as follows:

•

(b) Grantee shall provide financial statements documenting use of the funds for the services outlined in subsection (a) every [insert] months and within 30 days of the expiration or early termination of this Agreement.

(c) Grantee shall provide regular written progress reports, including representative samples of education and outreach materials and activities (if available), no less than every [insert] months and a final written evaluation of the project.

(d) Grantee warrants that funds granted by this Agreement shall be used solely for the purpose described above and on the application form submitted by Grantee, attached hereto and incorporated herein as Exhibit A. If the activity that is to be funded under this Agreement is canceled or substantially altered, Grantee agrees to notify OCPA and to refund the grant amount in full or in part as directed by OCPA. Within 30 days of the expiration or early termination of this Agreement, Grantee shall return any funds not used for the services by the effective date of expiration or termination.

(e) Grantee shall comply with all applicable laws and regulations in receiving the grant and performing the services.

(f) Grantee shall ensure that any publicity prepared, sponsored, or promoted by Grantee regarding the grant acknowledges OCPA as the funding source.

(g) No part of funds provided pursuant to this Agreement shall be used for public works projects or maintenance work as defined in California Labor Code Section 1720 and 1771, *et seq.* or any regulations or administrative or judicial authorities interpreting such provisions.

## **2. GRANT PAYMENT**

(a) **Maximum and Rate.** The total grant payable to Grantee by OCPA for services under this Agreement shall be \$[amount].

(b) **Payment Schedule.** OCPA shall fund Grantee with grant funds no later than [date], [year].

(c) **Limitation on Use of OCPA Funds.** Grant funds provided by OCPA under this Agreement shall not be used for any purpose other than those described above and in Grantee's application. Prohibited uses include, but are not limited to, using grant funds to support or oppose candidates for public office or to support or oppose a ballot measure, as well as any similar activities or uses.

## **3. TERM.**

The term of this Agreement shall commence on the date first set forth above and continue until [date], [year].

## **4. OCPA PROJECT MANAGER AND SERVICES BY OCPA**

OCPA's "Project Manager," as that staff person is designated by OCPA from time to time, is \_\_\_\_\_.

## **5. PROGRESS AND COMPLETION; EARLY TERMINATION UPON DEFAULT.**

Grantee shall commence work on the services to be performed upon receiving written authorization to proceed with the work provided by OCPA's Project Manager and receipt of an executed Agreement. All services shall be completed within the term of this Agreement. If the services shall be incomplete in any way or Grantee fails to comply with the terms and conditions

of this Agreement, the Project Manager may take appropriate action under this Agreement, at law or in equity, including without limitation early termination of this Agreement upon 15 days' prior written notice and opportunity to cure, in which case Grantee shall be required to repay to OCPA any funds received for services or projects hereunder.

**6. PREVAILING WAGES**

To the extent any work performed by or for the Grantee pursuant to this Agreement requires that the payment and reporting of payment of prevailing wages pursuant to State law, such obligation is the responsibility of Grantee.

**7. OWNERSHIP OF DOCUMENTS**

OCPA may request any drawings, designs, data, photographs, reports and other documentation directly related to the project (other than Grantee's drafts, notes and internal memoranda), including duplication of same, prepared by Grantee in the performance of these services.

**8. PERSONAL SERVICES/NO ASSIGNMENT/SUBCONTRACTOR**

Grantee's Project Manager shall be [Name]. Such Grantee Project Manager or other OCPA-approved representative, is deemed to be specially experienced and is a key member of the project team of Grantee, and shall be directly involved in performing, supervising or assisting in the performance of this work. Grantee's Project Manager shall communicate with, and periodically report to, OCPA's Project Manager on the progress of the work. No work shall be assigned to a subcontractor without OCPA's written consent.

**9. HOLD HARMLESS AND INDEMNITY**

**(a) Hold Harmless for Grantee's Damages.** Grantee holds OCPA, its elected officials, officers, and employees, harmless from all Grantee's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to Grantee, to Grantee's employees, to Grantee's volunteers, contractors or subcontractors, or to the owners of Grantee's firm, whether damages, losses, injuries or liability occur during the work required under this Agreement, or occur while Grantee is on OCPA property, or which are connected, directly or indirectly, with Grantee's performance of any activity or work required under this Agreement.

**(b) Defense and Indemnity of Third Party Claims/Liability.** Grantee shall investigate, defend, and indemnify OCPA, its officials, officers, employees, agents, and volunteers from any claims, lawsuits, demands, judgments, and all liability including, but not limited to, monetary or property damage, lost profit, personal injury, wrongful death, general liability, automobile, infringement of copyright/patent/trademark, or professional errors and omissions arising out of, directly or indirectly, an error, negligence, or omission of Grantee or Grantee's volunteers, contractors, subcontractors, or the willful misconduct of Grantee or Grantee's volunteers, contractors, subcontractors, in performing the services under this Agreement, except to the extent caused by the negligence or willful misconduct of OCPA, its officials, officers, employees, agents, and volunteers. The duty to defend shall include any suits or actions in law or equity concerning any activity, product or work required under this

Agreement, and also include the payment of all court costs, attorney fees, expert witness costs, investigation costs, claims adjusting costs and any other costs required for and related to such litigation.

(c) **No Waiver.** OCPA does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by OCPA, or the deposit with OCPA, of any insurance certificates or policies described in Section 9.

(d) **Survival.** Notwithstanding any other provision of this Agreement, obligations arising out of this Section 9 shall survive any expiration or termination of this Agreement.

## **10. INSURANCE**

Without limiting Grantee's indemnification of OCPA, and prior to commencement of services, Grantee shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to OCPA.

General liability insurance. Grantee shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

Automobile liability insurance. Grantee shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Grantee arising out of or in connection with services to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

Workers' compensation insurance. Grantee shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000). Consultant shall submit to OCPA, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of OCPA, its officers, agents, employees and volunteers.

Primary/noncontributing. Coverage provided by Grantee shall be primary and any insurance or self-insurance procured or maintained by OCPA shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of OCPA before OCPA's own insurance or self-insurance shall be called upon to protect it as a named insured.

Requirements not limiting. Requirements of specific coverage features or limits contained in this section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. If the Grantee



maintains higher limits than the minimums shown above, OCPA requires and shall be entitled to coverage for the higher limits maintained by the Grantee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to OCPA.

All insurance policies shall be issued by a financially responsible company or companies authorized to do business in the State of California. OCPA, its officers and employees, shall be named as additional insureds. Grantee shall provide OCPA with copies of certificates and endorsements for all policies, in a format acceptable to OCPA, with the appropriate named additional insured coverage and an endorsement that they are not subject to cancellation without 30 days prior written notice to OCPA. Insurance certificates must be submitted by Grantee and approved by OCPA before grant work commences.

#### **11. RELATION OF THE PARTIES**

The relationship of the parties to this Agreement shall be that of independent contractors and that in no event shall Grantee be considered an officer, agent, servant or employee of OCPA. Grantee shall be solely responsible for any workers compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the described work.

#### **12. CORRECTIONS**

In addition to the above indemnification obligations, Grantee shall correct, at its expense, all errors in the work, which may be disclosed during OCPA's review of Grantee's work activities, report or plans as described in the scope of services. Should Grantee fail to make such correction in a reasonably timely manner, such correction shall be made by OCPA, and the cost thereof shall be charged to Grantee or withheld from any funds due Grantee hereunder.

#### **13. AUDIT OF RECORDS**

At any time during normal business hours and as often as it may deem necessary, Grantee shall make available to a representative of OCPA for examination of all its records with respect to all matters covered by this Agreement and will permit OCPA to audit, examine and/or reproduce such records. Grantee will retain such financial records, time sheets, work progress reports, invoices, bills and project records for at least three years after termination or final payment under this Agreement.

#### **14. WAIVER; REMEDIES CUMULATIVE**

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party, and no such waiver shall be implied from any omissions by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this Agreement, or at

law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right of remedy.

**15. CONSTRUCTION OF LANGUAGE OF AGREEMENT**

The provisions of this Agreement shall be construed as a whole according to its common meaning of purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural and vice versa.

**16. MITIGATION OF DAMAGES**

In all situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

**17. GOVERNING LAW; VENUE; ATTORNEYS FEES.**

This Agreement, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of Orange County. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

**18. NONDISCRIMINATION**

Grantee shall comply with the federal Americans with Disability Act, Public Law 101-336, and observe the disability discrimination prohibitions of such laws in the performance of the work required under this Agreement. Grantee also represents that it is an equal opportunity employer and it shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of applicants, employees, subcontractors, vendors, or suppliers. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Further, Grantee shall provide equal opportunity for subcontractors to participate in subcontracting opportunities to the extent approved in accordance with this Agreement.

**19. CAPTIONS**

The captions or headings in this Agreement are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the Agreement.

**20. AUTHORIZATION**

Each party has expressly authorized the execution of this Agreement on its behalf and bind said party and its respective administrators, officers, directors, shareholders, divisions,

subsidiaries, agents, employees, successors, assigns, principals, partners, joint venturers, insurance carriers and any others who may claim through it to this Agreement.

**21. ENTIRE AGREEMENT BETWEEN PARTIES**

Except for Grantee's proposals and submitted representations for obtaining this Agreement, this Agreement supersedes any other agreements, either oral or in writing, between the parties hereto with respect to the rendering of services, and contains all of the covenants and agreements between the parties with respect to said services. Any modifications of this Agreement will be effective only if it is in writing and signed by the party to be charged.

**22. PARTIAL INVALIDITY**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**23. TIME OF ESSENCE.**

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

**24. COUNTERPARTS.**

This Agreement may be signed in counterparts, each of which shall constitute an original and may be signed using electronic signatures acceptable to both Parties.

**25. NOTICES**

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO OCPA:

TO GRANTEE:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURES ON FOLLOWING PAGE(S)

**IN WITNESS WHEREOF**, this Agreement has been executed by the parties effective on the date and year first above written.

**ORANGE COUNTY POWER AUTHORITY**

**GRANTEE**

---

OCPA Chief Executive Officer

**APPROVED TO FORM**

---

OCPA General Counsel

**EXHIBIT A**  
**GRANTEE'S APPLICATION**

# Get heat pump water heaters for your facilities through the SoCalREN!

*Entire costs covered for underserved areas only*

## LIMITED TIME OFFER - COSTS WILL BE COVERED WHILE SUPPLIES LAST

SoCalREN will cover up to 100% of eligible project costs for heat pump water heater installations at facilities in underserved areas. Up to 80% of eligible project costs will be covered in other areas.\*

*\*Determine if your facility falls in an underserved area at [socalren.org/agencies/dac](http://socalren.org/agencies/dac).*



### Eligibility Criteria

*Your facility must meet all criteria listed*

- ✓ Your facility's current water heater must exclusively use methane gas (natural gas) as its fuel source.
- ✓ Existing heat pump water heaters that hold between 30 - 100 gallons are eligible to be replaced.
- ✓ Your facility must be serviced by SCE.
- ✓ Existing water heaters with an efficiency rating of 0.81 or lower are eligible.

### Eligible Project Costs

Heat pump water heater equipment, contractor labor, capping existing gas line with a brass plug, demolishing existing vent, installing water heater electrical hookup, running electrical wire, and electrical panel upgrades.\*

*\*SoCalREN can potentially fund an electrical panel upgrade depending on the scale and financial feasibility of the project.*

Interested? Talk with your SoCalREN Project Manager to get started.

The SoCalREN Public Agency Programs are administered by the County of Los Angeles and funded by California utility ratepayers under the auspices of the California Public Utilities Commission.

**ORANGE COUNTY POWER AUTHORITY**  
**Staff Report – Item 10.6**

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To: Orange County Power Authority Board of Directors

From: Brian Probolsky, Chief Executive Officer for  
Kathleen Treseder, Vice Chair

Subject: DISCUSSION OF AN AMENDMENT TO THE JPA REQUIRING  
THE PUBLISHING OF OCPA’S CHECK REGISTER

Date: May 17, 2023

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**RECOMMENDED ACTION**

Discuss an amendment to the JPA requiring the publishing of OCPA’s check register.

**BACKGROUND**

On May 3, 2023 OCPA received the attached Memo from Vice Chair Kathleen Treseder. The memo requested that a discussion of an amendment to the JPA requiring the publication of OCPA’s check register be added to the May 17, 2023 Board agenda.

**FISCAL IMPACT**

None

**ATTACHMENTS**

Memo from Vice Chair Kathleen Treseder

# Memo

To: Brian Probolsky, Chief Executive Officer

From: Kathleen Treseder, Vice Chair

Date: May 3<sup>rd</sup>, 2023

**Re: OCPA Check Register Publication**

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I respectfully request that the following item be added to the May 17th, 2023, meeting agenda for OCPA Board discussion and review:

**DISCUSSION OF AN AMENDMENT TO THE JPA REQUIRING THE PUBLISHING OF OCPA'S CHECK REGISTER**

To establish and maintain the trust of the public, complete transparency is necessary in all aspects of OCPA's operations. In the interest of ensuring that the public is fully informed about our operations, I would like to require OCPA to publish the agency's check register, which documents the allocation of public funds. Many other public institutions have already adopted this practice.

To ensure that this becomes a standard practice at OCPA, I propose the addition of a new clause to the JPA agreement. The new clause would mandate the inclusion of the check register for the current month in the board agenda packet for every meeting. By doing so, the public will have access to information on how their funds are being utilized.

I propose adding the following language to the JPA agreement under section 5:

*The check register for the current period shall be included in the board agenda packets each month.*