

**MEMORANDUM OF UNDERSTANDING REGARDING
TECHNICAL STUDY OF ELECTRICAL LOAD DATA FOR
COMMUNITY CHOICE ENERGY**

This “Memorandum of Understanding Regarding Technical Study of Electrical Load Data for Community Choice Energy” (“MOU”) is entered as of _____, 2016 (“Effective Date”), by and among Contra Costa County, a political subdivision of the State of California (“County”), the Cities of Brentwood, Clayton, Concord, Martinez, Pittsburg, and Pleasant Hill, and the Towns of Danville and Moraga (collectively the “Funding Cities” and each a “Funding City”), and the Cities of Antioch, Hercules, Oakley, Orinda, Pinole, and San Ramon (collectively the “Non-Funding Cities” and each a “Non-Funding City”). The County, the Funding Cities, and the Non-Funding Cities are referred to herein together as the “Parties,” and each is sometimes referred to herein as a “Party.”

Recitals

- A. The Parties desire to cooperate to study options for participating in Community Choice Energy (“CCE”), pursuant California Public Utilities Code sections 331, 366, and 366.2, and other applicable laws and regulations.
- B. To study options for participating in CCE, the Parties will need to obtain, from Pacific Gas and Electric Company (“PG&E”), electrical load data for all of the Parties’ jurisdictions. The electrical load data for the Parties’ jurisdictions is collectively referred to herein as the “Load Data.” The Load Data is confidential and not subject to public disclosure pursuant to Public Utilities Code section 8380. Each Funding City and each Non-Funding City has authorized PG&E to release to the County the Load Data for electricity use within that city’s jurisdiction. PG&E will require the County to enter into a non-disclosure agreement (“NDA”) before PG&E will release the Load Data to the County.
- C. The Load Data must be analyzed to determine the electricity needs within the Parties’ jurisdictions, and to evaluate options for participating in CCE. The analysis of the Load Data will require the services of a technical consultant.
- D. The Parties enter into this MOU to identify their roles and responsibilities with respect to studying options for participating in CCE, and to establish a procedure for a Non-Funding City to become a Funding City under this MOU.

Agreement

NOW, THEREFORE, the Parties agree as follows:

1. County’s Responsibilities.

- A. Load Data. The County will enter into a NDA with PG&E and will obtain the Load Data from PG&E. The County will maintain and dispose of the Load Data

in accordance with the provisions of the NDA and all applicable laws and regulations.

B. Selection of a Technical Consultant.

1. After the County requests the Load Data from PG&E, the County will prepare and publish a request for proposals (“RFP”) to solicit proposals from qualified technical consultants for the analysis of the Load Data and for the preparation of a technical report. The County will solicit comments on the RFP from the Funding Cities before the County publishes the RFP.
2. An evaluation committee will evaluate responses to the RFP, and will be responsible for either (i) recommending a technical consultant that, in the committee’s opinion, is most qualified to analyze the Load Data, or (ii) recommending that no technical consultant be retained from among the technical consultants that respond to the RFP. The evaluation committee will be comprised of five representatives of the Parties – two representatives from the County, and one representative from each of the Cities of Brentwood and Pittsburg, and the Town of Danville. The County, as the Party responsible for retaining a technical consultant, shall have sole discretion to determine whether to follow the evaluation committee’s recommendation, and to determine whether to enter into a contract with a technical consultant.
3. If the County selects a technical consultant (the “Consultant”) to analyze the Load Data, the County will negotiate and, if negotiations are successful and any required Board of Supervisors approval is obtained, enter into a contract with the Consultant, to require the Consultant to do all of the following: (a) analyze the Load Data to determine the electricity needs within the Parties’ jurisdictions, (b) evaluate the Parties’ options for participating in CCE, (c) prepare a draft technical report documenting the Consultant’s analysis and findings (“Draft Report”), and (d) prepare a final technical report documenting the Consultant’s analysis and findings (“Final Report”), all of which are collectively referred to herein as the “Consultant Services.”

C. Technical Report.

1. After the Consultant prepares the Draft Report, the County will provide each Funding City a copy of that report. The County will provide each Funding City 30 days to comment on the Draft Report, as described in Section 2.A., below, before the County directs the Consultant to prepare the Final Report. The County will review and discuss with the Consultant all comments the County receives from the Funding Cities within that 30-

day period. The County will cooperate with the Funding Cities to resolve any conflicting or inconsistent comments.

2. Within 10 days after the Consultant provides the County the Final Report, the County will provide each Funding City a copy of the Final Report so that the Parties may present the Final Report to their governing bodies in a timely manner. Within 60 days after the Consultant provides the County the Final Report, the County will provide each Funding City: (a) documentation showing the Consultant's total charges to the County for the performance of all Consultant Services, including any reimbursable expenses (the "Total Consultant Charges"), and (b) a request for reimbursement of the Funding City's share of Total Consultant Charges, calculated in accordance with Section 2.C., below.

2. Funding Cities' Responsibilities.

- A. Comments on the RFP and Draft Report. Within 30 days after the County provides a Funding City a copy of the Draft Report, the Funding City will provide the County with that city's written comments related to the Draft Report, if any. The Funding Cities will cooperate with the County to resolve any conflicting or inconsistent comments.
- B. Presentations. The Funding Cities will coordinate with the County to schedule any presentations concerning the Final Report before the cities' governing and advisory bodies.
- C. Reimbursement of County.

1. Calculation of Reimbursement. Except as otherwise specified in Section 2.C.2., below, within 30 days after receipt of a request for reimbursement from the County pursuant to Section 1.C.2., above, each Funding City shall pay the County that city's proportional share of the Total Consultant Charges, calculated as follows:

$$[(\text{Total Consultant Charges})] \times [(\text{Funding City's Population}) \div (\text{Population of unincorporated Contra Costa County} + \text{population of all Funding Cities})] = \text{Amount of Funding City's Reimbursement to County}$$

The request for reimbursement will calculate the amount due from each Funding City based on the total number of Funding Cities, including any city that becomes a Funding City under Section 3.F.

2. Maximum Reimbursement for Specified Funding Cities. Notwithstanding the resultant of the calculation in Section 2.C.1., above, no Funding City shall be required to reimburse the County in excess of the Funding City's approved maximum reimbursement limit, as follows:

<u>Funding City</u>	<u>Maximum Reimbursement</u>
Brentwood	\$30,000
Clayton	\$5,000
Concord	\$25,000
Danville	\$18,000
Martinez	\$15,000
Moraga	\$10,000
Pittsburg	\$15,000
Pleasant Hill	\$15,000

3. **Miscellaneous Provisions.**

- A. Confidentiality of Data. The Parties agree that, notwithstanding anything to the contrary contained herein, nothing in this MOU shall require the County to disclose, disseminate, or dispose of Load Data in any manner that would violate the terms of the NDA, or any state or federal laws or regulations.
- B. No Obligations to Pursue CCE. The purpose of this MOU is to provide for the Parties' roles and responsibilities related to undertaking a technical study to analyze options for the Parties' potential future participation in CCE. Nothing in this MOU obligates any Party to become a community choice aggregator, or to participate with other Parties to establish a community choice aggregator, or to participate in CCE, or to take any other future discretionary actions.
- C. No Joint Powers Agency. Nothing in this MOU creates, nor shall it be construed as creating, a partnership, joint venture, or a joint exercise of powers agency separate and apart from the Parties hereto.
- D. Assignment; No Third-Party Beneficiaries. This MOU may not be assigned unless the assignment is approved in writing by all Parties. Nothing in this MOU, express or implied, is intended to confer on any person, other than the Parties and their successors and assigns, any rights or remedies by reason of this MOU.
- E. Notices. All notices and other correspondence required to be given under this MOU shall be in writing, and shall be delivered in person, by overnight carrier, or by U.S. Mail, to the following person and address designated for each Party. A notice shall be deemed given on the same day if it is personally delivered, on the next day if it is delivered by overnight carrier, or on the fifth (5th) day after the postmark date if it is given by U.S. Mail.

Contra Costa County:
Jason Crapo
Dept. of Conservation and
Development
30 Muir Road
Martinez CA 94553

Antioch:
Julie Haas-Wajdowicz
200 H Street
Antioch CA 94531

Brentwood:
Casey McCann
150 Park Way
Brentwood CA 94513

Concord:
Laura Simpson
1950 Parkside Drive
Concord CA

Clayton:
Gary Napper
6000 Heritage Trail
Clayton CA 94517

Danville:
Nat Rojanasathira
510 La Gonda Way
Danville CA 94526

Hercules:
David Biggs
111 Civic Drive
Hercules CA 94547

Martinez:
Michael Chandler
525 Henrietta Street
Martinez CA 94553

Moraga:
Ellen Clark
329 Rheem Boulevard
Moraga CA 94556

Oakley:
Joshua Mc Murray
3231 Main Street
Oakley CA 94561

Orinda:
Daisy Allen
22 Orinda Way
Orinda CA 94563

Pinole:
Michelle Fitzer
2131 Pear Street
Pinole CA 94564

Pittsburg:
Peter Guadagni
440 Walnut Avenue
Vallejo CA 94592

Pleasant Hill:
Andrew Murray
100 Gregory Lane
Pleasant Hill CA 94523

San Ramon:
Lauren Barr
2401 Crow Canyon Road
San Ramon CA 94583

A Party may change its contact person and address listed above by giving written notice to all other Parties.

- F. Amendment. At any time before September 1, 2016, a Non-Funding City may become a Funding City by providing all Parties written notice that the city will be a Funding City under this MOU. The notice shall specify the city's maximum reimbursement limit under Section 2.C.2., if any. A city giving notice shall have all the rights and obligations of a Funding City under this MOU, effective on the date notice is given. At any time during the term of this MOU, a Funding City may increase, but not decrease, its Maximum Reimbursement limit under Section 2.C.2. by providing all Parties written notice specifying the increased limit. Except as otherwise provided in this Section 3.F., this MOU may be modified only by a written amendment signed by all Parties.

- G. Effective. This MOU shall be effective as to a Party upon the execution of the MOU by that Party.
- H. Construction. If any provision of this MOU is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force.
- I. Governing Law. This MOU shall be governed and construed in accordance with California law.
- J. Counterparts. This MOU may be executed in one or more counterparts, each of which shall be deemed an original.

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CONTRA COSTA COUNTY

By: _____

Jason Crapo

Deputy Director

Approved as to form:

Sharon L. Anderson, County Counsel

By: _____

Deputy County Counsel

SMS

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CITY OF ANTIOCH

By: _____
Forrest Ebbs
Community Development Director

Approved as to form:

By: _____
City Attorney

CITY OF BRENTWOOD

By: _____

Gustavo Vina

City Manager

Approved as to form:

By: _____

City Attorney

CITY OF CONCORD

By: _____

Valerie Barone

City Manager

Approved as to form:

By: _____

City Attorney

CITY OF CLAYTON

By: _____

Gary Napper

City Manager

Approved as to form:

By: _____

City Attorney

TOWN OF DANVILLE

By: _____

Joseph A. Calabrigo

Town Manager

Approved as to form:

By: _____

Town Attorney

CITY OF HERCULES

By: _____

David Biggs

City Manager

Approved as to form:

By: _____

City Attorney

CITY OF MARTINEZ

By: _____

Brad Kilger

City Manager

Approved as to form:

By: _____

City Attorney

TOWN OF MORAGA

By: _____

Bob Priebe

Interim Town Manager

Approved as to form:

By: _____

Town Attorney

CITY OF OAKLEY

By: _____

Bryan H. Montgomery

City Manager

Approved as to form:

By: _____

City Attorney

CITY OF ORINDA

By: _____

Janet Keeter

City Manager

Approved as to form:

By: _____

City Attorney

CITY OF PINOLE

By: _____

Michelle Fitzer

City Manager

Approved as to form:

By: _____

City Attorney

CITY OF PITTSBURG

By: _____

Joseph Sbranti

City Manager

Approved as to form:

By: _____

City Attorney

CITY OF PLEASANT HILL

By: _____

June W. Catalano

City Manager

Approved as to form:

By: _____

City Attorney

CITY OF SAN RAMON

By: _____

Greg Rogers

City Manager

Approved as to form:

By: _____

City Attorney