



**COUNTY OF SAN MATEO**  
Inter-Departmental Correspondence  
County Manager's Office



**Date:** November 9, 2015  
**Board Meeting Date:** November 17, 2015  
**Special Notice / Hearing:** None  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Jim Eggemeyer, Director, Office of Sustainability  
David Silberman, Chief Deputy, County Counsel's Office

**Subject:** Adoption of a Resolution authorizing and directing the President of the Board of Supervisors to execute the Joint Exercise of Powers Agreement which will establish the Peninsula Clean Energy Authority with the County as a charter member.

**RECOMMENDATION:**

Adopt a resolution authorizing and directing the President of the Board of Supervisors to execute the Joint Exercise of Powers Agreement which will establish the Peninsula Clean Energy Authority with the County as a charter member.

**BACKGROUND:**

Since December 9, 2014, your Board has provided direction to the Office of Sustainability (OOS) to explore the feasibility of a Community Choice Energy program in San Mateo County (the enabling legislation refers to these types of programs as Community Choice Aggregation (CCA)), including conducting a focused outreach effort to educate and engage staff, city managers and city councils about the program.

On February 24, 2015, your Board allocated \$300,000 to fund Phase 1 of the CCA program, which included hiring a program consultant (LEAN Energy U.S.) to provide guidance and project management support; commissioning Pacific Energy Advisors, Inc. to determine the economic and technical feasibility of starting a CCA program in San Mateo County; hiring a creative services consultant to develop a website and related graphics for the program; and creating and supporting an Advisory Committee, comprised of representatives from all the cities in the county, as well as relevant stakeholder organizations, co-chaired by Board President Carole Groom and Supervisor Dave Pine.

On October 6, 2015, at a Board of Supervisors public meeting study session, your Board directed staff to prepare the necessary documents to commence Phase 2 of the three-phase program. Then on October 20, 2015, your Board allocated \$800,000 to fund Phase 2 of the CCA program, which includes Peninsula Clean Energy Authority formation and program design; energy product investigation and supply portfolio recommendations; city outreach and informational support for local ordinance adoption; implementation plan development; and community engagement, marketing, and communication.

Also on October 20, 2015 your Board introduced an ordinance implementing a community choice aggregation program in San Mateo County, followed by a second public meeting on November 3, 2015, adopting the Ordinance. The ordinance is in effect 30 days after adoption.

### **DISCUSSION:**

#### **JPA Formation Documents**

Section 366.2(c)(12)(B) of the Public Utilities Code expressly contemplates creation of a Joint Powers Authority so that a county and a city or cities can “participate as a group in a community choice aggregation program.” The County and each city can begin to take advantage of this option by doing two things: (1) entering into a Joint Powers Agreement forming a Joint Powers Authority under Section 6500, et seq. of the Government Code; and (2) adopting an Ordinance “elect[ing] to implement a community choice aggregation program within its jurisdiction” as required by Section 366.2(c)(12)(A).

As noted above, the Board has already adopted an Ordinance that complies with the requirements of Section 366.2(c)(12)(A).

Provided with this Memorandum is a Joint Powers Agreement, execution of which by the County and at least two cities, will create the Peninsula Clean Energy Authority. The framework of the Agreement initially originated from a similar agreement that was used to form Sonoma Clean Power.

As part of the drafting the Agreement, feedback on key decision points was obtained from the Advisory Committee on August 27, 2015, and the Board of Supervisors during a Study Session held on October 6, 2015, including: that cities would be allowed to become full members of the JPA rather than mere “participants” in the CCA program; that each City would have a member on the JPA Board, represented by an elected public official; that the JPA would have a two-tiered voting system based both on majority vote as well as a weighted vote that takes into account the energy use within the jurisdiction so as to create a fair balance of power amongst the members; a provision that makes clear that any liabilities of the JPA are incurred by the JPA and not the constituent members; and (later) a provision that allows constituent members to withdraw from the Authority without financial obligation if prior to launch it is clear that the Authority cannot meet its pricing and environmental goals.

.  
. .  
A first draft of the agreement was then completed and circulated to all of the city attorneys and during the following weeks, two in person meetings were held with city attorney representatives. During those meetings and through prior and subsequent electronic correspondence numerous changes to the agreement were made to address issues raised by the various representatives, including addition of the aforementioned pre-launch withdrawal provision. The attached Agreement reflects the collaborative effort.

County Counsel has reviewed and approved the documents as to content and form.

**SHARED VISION 2025:**

Implementing a CCA program in San Mateo County contributes to the Shared Vision 2025 outcome of an Environmental Conscious Community by reducing countywide Greenhouse Gas (GHG) emissions through cleaner power options. It also contributes to the outcome of a Collaborative Community by fostering relationships with all cities in the County, facilitating a regional solution to local energy needs, and expanding the available power procurement options for county residents.

**FISCAL IMPACT:**

No net county cost.

**ATTACHMENT:**

A. Joint Powers Agreement