

REPORT TO THE CITY COUNCIL

City of Salinas, California

DATE: March 21, 2017

FROM: Gary Petersen, Public Works Director

SUBJECT: COMMUNITY CHOICE ENERGY PROGRAM

RECOMMENDATIONS:

1. Approve the attached Resolution establishing the Monterey Bay Community Power Authority and approving the City of Salinas as a founding member of the Authority.
2. Adopt the attached Ordinance authorizing the implementation of a Community Choice Energy program in the City of Salinas
3. Direct staff to move forward on discussions and participation for City of Salinas's share of the credit guarantee.
4. Appoint two representatives of this governing body to serve as a primary and alternate on the newly formed Monterey Bay Community Power Board of Directors.

DISCUSSION:

Beginning in 2013, Monterey Bay Community Power (MBCP) was formed as a region-wide collaborative partnership comprised of all 21 local governments within the greater Monterey Bay area, including the Counties of Santa Cruz, Monterey, and San Benito and all 18 cities located within those counties. This collaborative was created to examine the potential for a community choice energy (CCE) program in the Monterey Bay region.

The goals of MBCP are to reduce greenhouse gas emissions, provide electric power and other forms of energy to customers at competitive prices in the Monterey, Santa Cruz and San Benito County region. In addition, the program seeks to reduce energy consumption, stimulate the local economy by creating local jobs and promote long-term electric rate stability and reliability for the residents of the tri-county area.

A Project Development Advisory Committee (PDAC) comprised of multiple jurisdictions and stakeholders was formed in early 2014 to provide guidance and make key recommendations in the early planning phases of the CCE initiative. Between 2014 and 2016, twenty-six meetings were held by the PDAC allowing for the exchange of ideas and input from participating jurisdictions, stakeholder groups, and interested citizens. In 2014, \$404,846 was raised by the Santa Cruz County Project Team to conduct a Phase I Technical Feasibility Study which analyzed the benefits and risks associated with creating a local CCE program. A full copy of the report can be found at www.montereybaycca.com. In

summary, the study found that “MBCP would be operationally viable under a relatively broad range of resource planning scenarios, demonstrating the potential for customer savings as well as reduced electric sector GHG emissions throughout the region.”

In May and June 2016, the PDAC hosted three special study sessions for county and city elected officials and executive staff for review and discussion of the technical study. Discussion included options regarding power supply, governance, start-up financing and management of the Monterey Bay Community Power Agency (“Agency”). In July and August 2016, ad hoc subcommittee meetings focused on JPA governance (i.e. elements of the JPA Agreement) and Agency financing were held for executive staff to discuss issues, timing and approach. The result of this work was the Monterey Bay Community Power Resolution of Intent which was issued in late September, 2016. This resolution allowed interested jurisdictions to affirm their desire to continue and participate in additional governance and financing discussions for the proposed Monterey Bay Community Power Joint Powers Authority (JPA). A copy of the MBCP JPA Agreement and resolution as recommended by participating jurisdictions is included with this packet, as is a template CCE ordinance for your consideration.

PROPOSED GOVERNANCE STRUCTURE OF MBCP:

The Monterey Bay Community Power JPA will be composed of jurisdictions within the Monterey, Santa Cruz and San Benito counties who have passed a JPA resolution and the CCE ordinance considered and adopted by March 31st, 2017. The JPA will be formed in April 2017 and will begin providing electrical service to customers in Spring 2018. The governing board structure will include a Policy Board composed of elected officials who will provide guidance/approval in the areas of strategic planning and goal setting, passage of Agency budget and customer rates, and large capital expenditures outside the typical power procurement required to provide electrical service. It will also include a separate Operations Board composed of senior executive staff who will provide oversight and support to the Chief Executive Officer on matters pertaining to the provision of electrical service to customers in the region, focusing on the routine, day-to-day operations of the Agency.

The JPA governing Board will consist of 11 seats, allocated by population size as outlined below. Shared board seats will be determined through the Mayors and Councilmembers’ city selection process in their respective counties, with a term of two years. Directors may be reappointed and serve multiple terms.

Five jurisdictions with 50,000+ population will have a permanent seat on the Board. Pending passage of aforementioned JPA resolution and CCE ordinance, these are: 1) Santa Cruz County, 2) Monterey County, and the cities of 3) Salinas, 4) Watsonville and 5) Santa Cruz. Additionally, the County of San Benito will have a permanent seat on the Board in recognition of the large geographical area it represents.

The remaining five shared/rotating seats will be allocated as follows:

- 1 seat for Santa Cruz County small cities (Scotts Valley and Capitola)
- 3 seats for Monterey County small cities, shared within each region:
 - Peninsula Cities (Monterey, Carmel, Pacific Grove);
 - Coastal Cities (Marina, Sand City, Del Rey Oaks, Seaside);
 - Salinas Valley Cities (Gonzales, Greenfield, King City, Soledad);
- 1 seat for San Benito County small cities (San Juan Bautista and Hollister)

AGENCY FINANCING:

In order to move forward with Agency and program implementation, MBCP will need between \$2M-\$3M to pay for startup costs and an additional \$10M-\$15M to cover power supply contracting and early operational/working capital needs. In December, Santa Cruz County, on behalf of MBCP issued a banking and credit services RFP seeking a third party lender(s) for both the startup capital and line of credit that will be needed later. The bid deadline for those services is February 1, 2018 and MBCP hopes to have its financing in place by April or May, 2017.

NEXT STEPS:

To move forward, the City/County will be required to pass a resolution for JPA membership, conduct a first reading of the CCE ordinance, direct staff to work with the Santa Cruz County planning team on the credit guarantee requirements, and appoint a representative and alternate to the Policy Board of Directors. Municipalities passing resolutions and ordinances will be invited to attend MBCP's inaugural Board meeting in late April, 2017.

ISSUE:

Shall the Council take the following actions:

1. Approve the attached Resolution establishing the Monterey Bay Community Power Authority and approving the City of Salinas as a founding member of the Authority?
2. Adopt the attached ordinance authorizing the implementation of a Community Choice Energy program in the City of Salinas?
3. Direct staff to move forward on discussions and participation for the City's share of the credit guarantee; and,
4. Appoint two representatives of this governing body to serve as a primary and alternate on the newly formed Monterey Bay Community Power Board of Directors?

FISCAL IMPACT:

Financial participation for MBCP members is proposed to be a credit guarantee to support the pre-revenue start up loan of up to \$3 million. The credit guarantee obligation will be distributed on a per-seat basis and will take the form of a letter of credit, cash collateral or interagency agreement. In the example of an 11-member Board, each seat on the board would be allocated 1/11 (9.1%) of the credit guarantee burden. Shared seat members would divide the credit guarantee among the cities in their respective groupings in order to arrive at the level of credit support that will be required by a third party lender. The final amount of this loan (and credit guarantee requirement) will be confirmed once ordinances are passed and loan offers have been received.

TIME CONSIDERATIONS:

Timely approval of this Resolution and the proposed Ordinance will allow the City of Salinas to become a charter member of the Monterey Bay Community Power Authority.

ALTERNATIVES/IMPLICATIONS:

The Council may choose to reject to this request which would result in the City withdrawing from participation in the development of the JPA to develop a community choice aggregate energy program.

CITY COUNCIL GOALS:

The proposal is consistent with one of the City Council 2013-2016 Five Strategic Goals and Objectives associated with Economic Diversity and Prosperity.

CONCLUSIONS:

At its March 21, 2017 meeting, the City Council is being asked to pass a resolution for JPA membership, conduct a first reading of the CCE ordinance, direct staff to work with the Santa Cruz County planning team on the credit guarantee requirements, and appoint a representative and alternate to the Policy Board of Directors by March 31st, 2017.

Back up pages:
Resolution
Ordinance

RESOLUTION NO. _____ (N.C.S.)

**RESOLUTION APPROVING THE JOINT POWERS AGREEMENT ESTABLISHING THE
MONTEREY BAY COMMUNITY POWER (MBCP) AUTHORITY, AUTHORIZING THE
MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY OF SALINAS,
AND ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT
(CEQA) EXEMPTION FINDINGS**

WHEREAS, AB 117, adopted as California state law in 2002, permits cities, counties, or city and county Joint Power Authorities to aggregate residential, commercial, industrial, municipal and institutional electric loads through Community Choice Aggregation (CCA); and

WHEREAS, there are currently five CCA programs operating in California - MCE Clean Energy, CleanPowerSF, Sonoma Clean Power, Peninsula Clean Energy and Lancaster Choice Energy – with dozens more in formation; and

WHEREAS, the City of Salinas approved a Resolution in January 2014 to explore the creation of a CCA program for the Monterey Bay region and participated, in cooperation with the County of Santa Cruz and other local governments, in a technical study that analyzed the potential for a CCA program in the Monterey Bay region; and

WHEREAS, the technical study shows that there are numerous potential benefits for cities and counties that aggregate their electrical load including: 1) an expectation of stable and competitively priced electric generation rates for residents, businesses and municipal operations compared to the electrical rates of Pacific Gas & Electric Company (PG&E), 2) greater use of renewable energy resources than is planned by PG&E, 3) significant greenhouse gas reductions as a result of a cleaner power supply than is offered by PG&E; and 4) economic development benefits and local jobs resulting in the creation of MBCP, lower electric rates, and the development of local power resources.

WHEREAS, the City wishes to be a community choice aggregator and has introduced the Ordinance as required by Public Utilities Code Section 366.2 in order to do so;

WHEREAS, the City Council has considered the proposed Joint Exercise of Powers Agreement, a draft of which is attached hereto as Exhibit A, under which the City of Salinas and other municipalities in the Monterey Bay tri-county region - consisting of Santa Cruz, Monterey and San Benito Counties and the cities within those counties - will become the initial members of Monterey Bay Community Power Authority; and

WHEREAS, Once the California Public Utilities Commission approves the implementation plan created by MBCP, it will provide service to customers within the cities and counties that choose to join MBCP and to participate in the CCA program; and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt-out of the CCE program and continue to receive service from the incumbent utility. Customers who wish to continue to receive service from the incumbent utility will be able to do so at any time.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Salinas as follows:

Section 1. The Joint Exercise of Powers Agreement to form the Monterey Bay Community Power Authority is hereby approved; and

Section 2. This resolution and the establishment of the Monterey Bay Community Power Authority is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, as it is not a “project” since this action involves organizational and administrative activities of government that will not result in direct or indirect physical changes in the environment. (14 Cal. Code Regs. § 15378(b)(5)). Further, the ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant negative effect on the environment. (14 Cal. Code Regs. § 15061(b)(3)). A Notice of Exemption shall be filed as authorized by CEQA and the State CEQA guidelines.

Section 3. This resolution shall be effective upon the adoption of Ordinance No. _____, an Ordinance of the City of Salinas authorization the implementation of a Community Choice Aggregation (CCA) Program.

BE IT FURTHER RESOLVED that the Mayor and/or City Manager is hereby authorized and directed to execute the Joint Exercise of Powers Agreement on behalf of the City of Salinas, which will establish MBCP with the City as a founding member.

PASSED AND APPROVED this 21st day of March, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Joe Gunter, Mayor

ATTEST:

Patricia M. Barajas, City Clerk

ORDINANCE NO. _____ (N.C.S.)

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALINAS AUTHORIZING
IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM**

The City Council of the City of Salinas does ordain as follows:

SECTION 1. FINDINGS. The City Council finds as follows:

WHEREAS, Monterey Bay Community Power has investigated options to provide electric services to customers within the tri-county region of Monterey, Santa Cruz and San Benito Counties (Tri-County Region), including incorporated and unincorporated areas, with the intent of achieving greater local control and involvement over the provision of electric services, competitive electric rates, the development of clean, local, renewable energy projects, reduced greenhouse gas emissions, and the wider implementation of energy conservation and efficiency projects and programs; and

WHEREAS, Monterey Bay Community Power prepared a Feasibility Study for a community choice aggregation (“CCA”) program in the Tri-County Region with the cooperation of the cities and counties under the provisions of the Public Utilities Code section 366.2. The Feasibility Study shows that implementing a community choice aggregation program would provide multiple benefits, including:

- Providing customers a choice of power providers;
- Increasing local control and involvement in and collaboration on energy rates and other energy-related matters;
- Providing more stable long-term electric rates that are competitive with those provided by the incumbent utility;
- Reducing greenhouse gas emissions arising from electricity use within the City of Salinas
- Increasing local renewable generation capacity;
- Increasing energy conservation and efficiency projects and programs;
- Increasing regional energy self-sufficiency;
- Improving the local economy resulting from the implementation of local renewable and energy conservation and efficiency projects; and

WHEREAS, the Joint Powers Agreement creating the Monterey Bay Community Power Authority (“Authority”) will govern and operate the CCA program on behalf of its member jurisdictions. Under the Joint Powers Agreements, cities within the Tri-County Region may participate in the Monterey Bay Community Power CCA program by adopting the resolution and ordinance required by Public Utilities Code section 366.2. Cities choosing to participate in the CCA program will have membership on the Board of Directors of the Authority as provided in the Joint Powers Agreements; and

WHEREAS, the Authority will enter into Agreements with electric power suppliers and other service providers, and based upon those Agreements the Authority will be able to provide power to residents and businesses at rates that are competitive with those of the incumbent utility (“PG&E”). Once the California Public Utilities Commission approves the implementation plan created by the Authority, the Authority will provide service to customers within the unincorporated areas of the tri-

county region of Monterey, Santa Cruz and San Benito Counties and within the jurisdiction of those cities therein who have chosen to participate in the CCA program; and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt-out of a CCA program and continue to receive service from the incumbent utility. Customers who wish to continue to receive service from the incumbent utility will be able to do so; and

WHEREAS, on March 21st, 2017 the City Council held a public hearing at which time interested persons had an opportunity to testify either in support or opposition to implementation of the Monterey Bay Community Power CCA program in the City of Salinas; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF SALINAS as follows

Section 1. The above recitals are true and correct and material to this Ordinance.

Section 2. AUTHORIZATION TO IMPLEMENT A COMMUNITY CHOICE AGGREGATION PROGRAM. Based upon the forgoing, and in order to provide businesses and residents within the City of Salinas with a choice of power providers and with the benefits described above, the City Council of the City of Salinas ordains that it shall implement a community choice aggregation program within its jurisdiction by participating as a group with the other counties and cities as described above in the Community Choice Aggregation program of the Monterey Bay Community Power Authority, as generally described in the Joint Powers Agreement approved through Resolution No. ____.

Section 3. SEVERABILITY. In the event any section, clause or provision of this ordinance shall be determined invalid or unconstitutional, such section, clause or provision shall be deemed severable and all other sections or portions hereof shall remain in full force and effect. It is the intent of the City Council that it would have adopted all other portions of this ordinance irrespective of any such portion declared to be invalid or unconstitutional.

Section 4. ENVIRONMENTAL DETERMINATION. This ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to the CEQA Guidelines, as it is not a "project" as it has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment because energy will be transported through existing infrastructure (14 Cal. Code Regs. § 15378(a)). Further, this ordinance is exempt from CEQA as there is no possibility that this ordinance or its implementation would have a significant effect on the environment (14 Cal. Code Regs. § 15061(b)(3)). This ordinance is also categorically exempt because it is an action taken by a regulatory agency to assume the maintenance, restoration, enhancement or protection of the environment (14 Cal. Code Regs. § 15308). The City Manager's Office shall cause a Notice of Exemption to be filed as authorized by CEQA and the CEQA guidelines.

Section 5. PUBLICATION. This ordinance shall be in full force and effective 30 days after its adoption, and shall be published and posted as required by law.

Section 6. EFFECTIVE DATE. This ordinance was introduced on March 21st 2017, and adopted on _____, and shall be effective thirty days after its date of adoption.

PASSED AND ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT :

ABSTAIN:

Joe Gunter, Mayor

ATTEST

Patricia M. Barajas, City Clerk

APPROVED AS TO FORM;

Christopher A. Callihan, City Attorney