



**CAC Item C6**

**Staff Report Item 17**

**TO:** Ava Community Energy Authority Board of Directors

**FROM:** Alex DiGiorgio, Senior Manager, Public Engagement

**SUBJECT:** **Inclusion of New Communities: San Joaquin County (Action Item)**

**DATE:** July 17, 2024

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**Recommendation**

Receive staff report and analysis regarding the addition of unincorporated San Joaquin County to Ava’s service area and take the following actions:

- A.) Adopt a Resolution to authorize San Joaquin County (unincorporated) to join Ava as a member agency and signatory to the JPA Agreement, with customer enrollments to begin in 2026; and to direct staff to update Exhibit A (“List of Parties”), Exhibit B (“Annual Energy Use”), and Exhibit C (“Voting Shares Vote”) of Ava’s Joint Powers Agreement to reflect the inclusion of San Joaquin County.
  
- B.) Adopt a Resolution to authorize staff to update Ava’s Implementation Plan to reflect the inclusion of County of San Joaquin, and to submit the updated Implementation Plan to the California Public Utilities Commission (CPUC) before the end of calendar year 2024.

**Background and Discussion**

Ava’s primary mission is to reduce energy-related greenhouse gas (GHG) emissions and combat climate change by providing access to renewable energy at competitive rates, while pioneering innovative programs and policies in its service territory. Expanding Ava’s service territory and customer base can facilitate these goals by diversifying Ava’s energy load and providing economies of scale. Moreover, by adding

new communities to its service area, Ava can cultivate a more demographically diverse customer base and broader political representation (e.g., through additional State and Federal districts); and help to advance sustainable development, environmental justice, and energy democracy throughout California.

### **New Community Inclusion: Requirements, Timing, Process**

*Section 3.1* of Ava's Joint Powers Authority (JPA) Agreement refers to the "Addition of Parties," and provides for the possibility of including new jurisdictions within the JPA and its corresponding service area with updates to the JPA Agreement's Exhibits.

#### ***Requirements: New community inclusion process and conditions of membership***

In order to join Ava, the following legal and procedural requirements must be met: **1)** the governing body of the prospective jurisdiction (i.e., the City Council or County Board of Supervisors) must pass a Resolution requesting to join Ava and agreeing to become a signatory of the Ava JPA Agreement; and pass an ordinance to implement a community choice aggregation program pursuant to Public Utilities Code Section 366.2; **2)** A majority of Ava's total Board membership must pass a Resolution authorizing the addition of the prospective jurisdiction as a new member and directing staff to update the JPA Agreement Exhibits; and **3)** finally, Ava must submit an updated Implementation Plan to the CPUC reflecting the membership of the new jurisdiction within Ava's JPA.

The San Joaquin County Board of Supervisors has already adopted the required Resolution agreeing to become a signatory to Ava's JPA Agreement and join Ava; and it has passed the required two readings of a corresponding ordinance pursuant to Public Utilities Code Section 366.2 (please see attachments). The next step in San Joaquin County's Ava membership process is for the Ava Board of Directors to adopt the proposed Resolution adding San Joaquin County (unincorporated) to the JPA Agreement and including the County's unincorporated communities within Ava's service area with customer enrollments to begin in 2026.

*Section 3.1* of the JPA Agreement also provides for the satisfaction of other "additional conditions" for JPA membership, including "membership payment" or "membership fee," which are subject to the discretion of Ava's Board. To date, Ava's Board has not imposed such conditions on membership for new parties.

San Joaquin County's elected leaders, County staff, and community members expect the County to be able to join Ava's JPA and participate in its governance under the same conditions as all current members. If these expectations are not met, it could lead unincorporated San Joaquin County and/or future, prospective new member-

jurisdictions in San Joaquin County or elsewhere to become less interested in joining Ava. For these reasons, the Board is encouraged to proceed cautiously when considering new conditions on JPA membership.

Once San Joaquin County has joined Ava and its membership is certified by the CPUC, the County will be entitled to appoint a member of the Board of Supervisors to serve as a member of the Ava Board of Directors.

***Requirements: Update JPA Exhibits A, B, & C***

To implement the addition of San Joaquin County as a signatory and member of Ava, the Board must approve updates to JPA Exhibits A (“List of Parties”); B (“Annual Energy Use”); and C (“Voting Shares”). Section 1.3 of the JPA Agreement provides that Exhibits A, B, and C may be revised upon the approval of the Board, without such revision constituting an amendment to the Agreement.

**Exhibit A: “List of Parties”**

Exhibit A lists the names of all jurisdictions which are members of Ava’s Joint Powers Authority. Updating this list is straightforward; it simply involves adding the names of new member jurisdictions, pending the passage of a Board Resolution authorizing their JPA membership.

If the Board authorizes the membership of San Joaquin County, the County’s name must be added to Exhibit A listed in alphabetical order (draft Attached).

***Recommendation:*** Pending Board authorization to include the San Joaquin County, approve a motion to update Exhibit A to include the County among the “List of Parties.”

**Exhibits B & C: “Annual Energy Use” & “Voting Shares Vote”**

Exhibits B and C list the annual energy use and the voting shares percentage of each member jurisdiction.

The Board voting procedures are set forth in *Section 4.12* of the JPA Agreement. According to *Section 4.12.1*, most Board decisions require a simple majority vote of all the Directors, with each jurisdiction having one equal vote. This procedure is referred to as a “Percentage Vote.” Additionally, *Section 4.12.2* creates a “Voting Shares Vote” procedure, which may immediately follow an affirmative or a tied Percentage Vote if requested by three or more Directors. Under a Voting Shares Vote, each jurisdiction’s vote is essentially ‘weighted’ according to the size of its annual energy usage as compared to Ava’s total annual energy (i.e., the collective, community-wide electricity demand within its borders). To date, the Voting Shares Vote provision of the JPA has

never been invoked by the Ava Board of Directors, but it is nonetheless important to establish each member's Voting Share in the event that the Board opts to utilize this process in the future.

According to *Section 1.1.23* of the JPA Agreement, "Annual Energy Use" for the first two years after Ava's launch date (December 1, 2016) was to be based on the annual electricity usage within each member's respective jurisdiction (at that time, this would have been the PG&E load). After December 2018, the JPA Agreement provided that the Annual Energy Use would be based on the annual electricity usage of accounts served by Ava within the member's jurisdiction (in other words, the member agency's Ava load).

Historically, however, the Board has followed an alternate interpretation. Since the addition of Tracy, Newark, and Pleasanton in November 2019, the Board has expressly allowed new members to participate in 'Voting Shares' votes at their entry into Ava by updating Exhibit B to show the new member's most recent PG&E load data as their Annual Energy Use, rather than taking the position that Ava load should be the basis for Voting Shares, thus excluding territories where Ava has not launched service yet from a Voting Shares Vote under the JPA agreement. Staff recommends the Board follow this past practice with San Joaquin County in order to encourage their full participation in Ava's decision making process. Staff is currently working to bring a formal amendment to the Board to revise the JPA Agreement to reflect this longtime practice.

The Total Annual Energy is the sum of all the member jurisdictions' Annual Energy Use. Each member agency's percentage of the Total Annual Energy Use then becomes their Voting Share, as described in Exhibit C. The data in Exhibit B, together with the corresponding voting shares in Exhibit C, are supposed to be "adjusted annually as soon as reasonably practicable after January 1, but no later than March 1 each year subject to the approval of the Board."

Based on past practice, Ava staff recommends the Board update Exhibit B using the most recent PG&E load data available (i.e., from calendar year 2023). This provides an 'apples-to-apples' comparison for each member jurisdiction. Staff recommends that this data be used to determine the updated Voting Shares in Exhibit C.

### ***Timing of new enrollments***

In February of 2018, the CPUC passed [Resolution E-4907](#), which delays the timeline by which California cities and counties may begin service with Community Choice Aggregation (CCA) agencies, like Ava. In effect, cities and counties must wait a full calendar year between the time they form or join a CCA and when electricity customers

within their borders may be enrolled in the CCA’s service. As a result, any jurisdiction that requests to begin service with Ava by 2026, must complete the process of joining Ava’s JPA by the end of calendar year 2024. Otherwise, enrollment with Ava will not be possible until 2027 or later.

In April of 2023, the CPUC passed [Resolution E-5258](#), which delayed the City of Stockton’s Ava enrollment until January 1, 2025 (as well as the enrollments of other California cities that had been preparing to join CCAs in 2024). In brief, Resolution E-5258 retroactively applied additional conditions to CCAs that were planning to expand their service to new communities. These conditions focused on the timing of Resource Adequacy (“RA”) procurement and compliance requirements. Ava has since adjusted its RA planning to account for these requirements by aiming to submit the updated Implementation Plan before the end of September 2024. As a result, pending the Board’s approval, San Joaquin County’s anticipated start of Ava service would begin in 2026.

**Process**

The table below summarizes the County of San Joaquin’s Ava membership consideration and implementation processes:

Date	Event
<b>Sep 2023- Apr 2024</b>	Ava staff present to the San Joaquin County Board of Supervisors at the County’s invitation. Ava staff continue to engage and communicate with County staff and Supervisors
<b>Oct 2023- May 2024</b>	County completes PG&E load data request forms/non-disclosure agreements. Ava staff receives load data from PG&E.
<b>Apr - May 2024</b>	County Board of Supervisors passes Resolution, Ordinance to join Ava (attached).
<b>May- June 2024</b>	Ava conducts quantitative analysis to evaluate County’s JPA membership request (attached).
<b>July 2024</b>	Earliest opportunities for Ava’s Board of Directors (BoD) and Committees to consider quantitative analysis, JPA inclusion request(s), and updates to JPA Agreement Exhibits A, B and C.
<b>Sep-Dec 2024</b>	Latest opportunities for Ava BoD and Committees to consider quantitative analysis, JPA inclusion request(s), and updates to JPA Agreement Exhibits A, B and C. Pending affirmative Board vote, staff updates Exhibits, and files updated Implementation Plan with CPUC.
<b>2025</b>	San Joaquin County entitled to a seat on Ava’s Board of Directors; Ava’s initial community outreach to new communities begins. Some

	Ava programs may become available to Unincorporated San Joaquin County’s electricity customers (e.g. technical assistance w/energy resilience at critical municipal facilities).
<b>2026</b>	Ava customer account enrollments begin in unincorporated San Joaquin County

**Financial Impact**

The prospect of including a new community within Ava’s Joint Powers Authority and service area presents considerable financial implications for the agency. For this reason, Ava staff conducted a Quantitative Analysis (QA) using the City’s annual PG&E load data (from calendar year 2023) to evaluate the cost of service to this prospective new member jurisdiction. The results of this analysis are included as an attachment to this report (Attachment H).

In short, the purpose of the QA was to help answer the following, basic question: *Can Ava include unincorporated San Joaquin County within its growing service area, while providing the same level of service (or better) offered to current JPA member-jurisdictions and their communities?* This level of service (also known as Ava’s “value proposition”) offers customers competitive electricity rates with greater access to renewable and carbon-free energy resources compared to standard PG&E service.

According to the QA, the additional electric load of unincorporated San Joaquin County in 2023 would hypothetically yield approximately \$10.3 million to Ava’s net revenues, or an additional 7.95% to Ava’s overall net position for that year, when applying our historical hedge portfolio. For 2026, however, wholesale energy costs are forecasted to remain considerably higher than historical averages. As such, Ava’s initial year of service to unincorporated San Joaquin County is expected to reduce the agency’s net position, depending on market conditions at that time. We have shown high and low Power Resource Cost (PR Costs) scenarios. Over time, given extended time to procure, we expect SJC would contribute similarly to Ava’s net position.

The table below summarizes the findings of the QA. Please note the following:

- Financial Base-Case scenario is based upon expected forward looking estimates for revenues and power resource/energy costs (“PR” = Power Resource)
- The table provides Base-Case assumptions and results for 2026; and are based on estimates as of July 2024.
- Data reflects estimated service to SJC for full calendar year of service (2026). Exact enrollment timing may be phased and/or otherwise adjusted to optimize cost impacts, customer experience, and power resource procurement.

SJC (applying Ava's historical	SJC 2026 (high PR costs)	SJC 2026 (low PR costs)	Ava 2026 (w/out SJC)	Ava w/SJC 2026	Ava w/SJC 2026
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	average PR costs)			(high PR costs)	(low PR costs)
<b>Accounts</b>	58,003	58,003	58,003	760,618	818,621
<b>Peak Load (MW)</b>	314	314	314	1,859	2,173
<b>Net Position %</b>	+7.95%	-23.4%	-4.6%	+4.6%	+1.9%
<b>Net Position \$</b>	\$10.3M	-\$30.3M	-\$5.7M	\$51.0M	\$20.7M
<b>Annual Load (GWh/yr)</b>	1,030	1,030	1,030	8,034	9,064

**NOTES:**

- \*Based on current overhead costs and 10-year average market values/forecasts;
- \*Assumes 7% account opt out rate (slightly above Ava’s current service area-wide opt out rate);
- \*Applies Ava’s 2025 rates from 2024-25 budget development;
- \*Data excludes ineligible loads (e.g. municipal utilities/irrigation districts, Direct Access);
- \*Uses 2023 PG&E load data for San Joaquin County (the most recent available);

**Qualitative Considerations**

Lastly, in addition to considering the governance and financial implications of San Joaquin County’s Ava membership, there are numerous qualitative benefits that the Board should consider as well. These include the following:

- **Diversity, Equity, and Inclusion (DEI)** - By expanding access to competitively priced renewable energy and related programs to growing, frontline communities in California’s Central Valley, Ava can continue to advance the Agency’s goals around diversity, equity, and inclusion;
- **Environmental Justice** – For a variety of systemic, economic, geographic, topographic, historical, and socio-political reasons, air pollution (among other forms of pollution) in San Joaquin County and the greater San Joaquin Valley region represents an urgent public health challenge.<sup>11</sup> Pediatric asthma, in particular, is fairly widespread, affecting one in six children.<sup>12</sup> By providing alternatives to fossil fuel-based energy resources in the building, transportation, and agricultural sectors, Ava can help advance environmental justice and increase the quality of life for local communities;
- **Local Programs** – Due to its location within a major highway corridor and a global hub for agriculture, industry, and light/medium/heavy-duty trucking and goods transport, San Joaquin County offers tremendous programmatic opportunities for Ava’s transportation and building electrification endeavors. Ava

staff has identified multiple program areas where collaboration can begin right away;

- **Legislation and Political Influence** – By welcoming new State Assembly/Senate districts and new Federal Congressional districts into Ava’s service area, Ava’s current communities and customers will benefit from greater representation in Sacramento and Washington DC through Ava’s legislative and regulatory advocacy efforts;
- **CCA Proliferation, Public Power, and Energy Democracy** – When fast-growing, demographically diverse communities, such as those within San Joaquin County, join California’s CCA moment, they help catalyze public power and energy democracy throughout California by example. Combined with the cities of Tracy, Stockton and Lathrop, the addition of San Joaquin County to Ava would likely have a compounding positive impact and may influence neighboring Central Valley jurisdictions to consider CCA membership generally and/or Ava membership specifically.

### **Attachments**

- A. Ava Resolution to include the San Joaquin County as a JPA member
- B. Ava Resolution authorizing Ava staff to update Ava’s Implementation Plan and submit it to the CPUC by end of calendar year 2024;
- C. Current Ava Joint Powers Agreement including Exhibits A, B and C;
- D. Proposed updates to JPA Exhibits A, B and C to include San Joaquin County (unincorporated);
- E. San Joaquin County’s signed Resolution to join Ava;
- F. San Joaquin County’s signed Ordinance to join Ava/implement CCA;
- G. San Joaquin County’s signed Ava JPA signature page
- H. Presentation: San Joaquin County’s Ava membership and analysis



**RESOLUTION NO. R-2024-xx**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF AVA COMMUNITY ENERGY AUTHORITY AUTHORIZING SAN JOAQUIN  
COUNTY TO BECOME A PARTY TO THE JOINT POWERS AGREEMENT AND  
MEMBER OF AVA**

**WHEREAS** the Ava Community Energy Authority (“Ava”) was formed as a community choice aggregation agency (“CCA”) on December 1, 2016, Under the Joint Exercise of Power Act, California Government Code sections 6500 et seq., among the County of Alameda, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City to study, promote, develop, conduct, operate, and manage energy-related climate change programs in all of the member jurisdictions. The cities of Newark and Pleasanton, located in Alameda County, along with the City of Tracy, located in San Joaquin County, were added as members of Ava and parties to the Joint Powers Authority (JPA) in November of 2019. The City of Stockton, located in San Joaquin County was added as a member of Ava and party to the JPA in September of 2022. The City of Lathrop, located in San Joaquin County, was added as a member to Ava and party to the JPA in October of 2023. On October 24, 2023, the Authority legally adopted the name Ava Community Energy Authority, where it had previously used the name East Bay Community Energy Authority since its inception.

**WHEREAS** on September 24, 2002, the Governor of California signed into law Assembly Bill 117 (Stat. 2002, Ch. 838; see California Public Utilities Code section 366.2; hereinafter referred to as the “Act”), which authorizes any California city or county, whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation (“CCA”); and

**WHEREAS**, on November 8, 2017, the California Public Utilities Commission (“CPUC”) certified the “Implementation Plan” of Ava, confirming Ava’s compliance with the requirements of the Act; and

**WHEREAS** Section 3.1 of the Ava Joint Powers Agreement (“Agreement”) sets forth the procedures for the addition of new member jurisdictions; and

**WHEREAS** including new member jurisdictions within Ava’s Joint Powers Authority can benefit Ava communities, customers, and the general public by 1) expanding access to competitively-priced renewable energy, innovative programs and equitable policies; 2) achieving greater economies of scale, while accelerating the reduction of greenhouse gas emissions; 3) enhancing Ava’s financial strength through increased revenues and reserves; 4) diversifying the Agency’s service area, while

advancing environmental justice in historically marginalized communities; 5) empowering local stakeholders with more direct representation before State-level regulators and elected officials; and 6) inspiring more cities and counties to explore public power options in California and nationwide; and

**WHEREAS** on April 9, 2024, through a unanimous vote of its Board of Supervisors, San Joaquin County expressed its intention of joining Ava and participating in the Agency's CCA program by passing a resolution to request membership in Ava and introducing an ordinance to implement a CCA program as required by Public Utilities Code section 366.2; and the ordinance was formally adopted on May 9, 2024; and

**WHEREAS** Ava conducted a quantitative analysis to examine the cost of service to San Joaquin County, which indicated positive qualitative and quantitative benefits from their membership to the prospective County as well as to Ava's current communities and customer base; and,

**WHEREAS** per CPUC rules, prospective member jurisdictions must join Ava before the end of calendar year 2024 to begin customer enrollments in Ava's service options by 2026; and

**WHEREAS** Section 3.1 of the Agreement requires the Board of Directors to adopt a resolution authorizing the membership of additional member jurisdictions, and specifying the membership payment and conditions for membership, if any.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF AVA COMMUNITY ENERGY AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:**

Section 1. San Joaquin County is hereby authorized to become a party to the Agreement and a member of Ava, subject to the following conditions:

- (a) The Community Choice Aggregation ordinance adopted by San Joaquin County becoming effective.
- (b) The execution of the Agreement by the duly authorized official of San Joaquin County.

Section 2. Staff are hereby directed to revise Exhibits A, B, and C of the Agreement to include San Joaquin County as a member of Ava and to provide updated energy load information. Revised Exhibits are attached to this Resolution and incorporated herein.

Section 3. The CEO and General Counsel are hereby authorized to take all necessary implementing actions to effectuate this Resolution, including but not limited to filing a revised Agreement with the Secretary of State and applicable Local Agency Formation Commissions, as required by state law.

ADOPTED AND APPROVED this 17<sup>th</sup> day of July, 2024.

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Jack Balch, Chair

ATTEST:

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Adrian Bankhead, Clerk of the Board

**RESOLUTION NO. R-2024-xx**

**A RESOLUTION OF THE BOARD OF DIRECTORS**

**OF AVA COMMUNITY ENERGY AUTHORITY AUTHORIZING AVA STAFF TO UPDATE AVA'S IMPLEMENTATION PLAN TO REFLECT THE INCLUSION OF A NEW MEMBER JURISDICTION AND SUBMIT THE UPDATED PLAN TO THE CPUC**

**WHEREAS** the Ava Community Energy Authority ("Ava") was formed as a community choice aggregation agency ("CCA") on December 1, 2016, Under the Joint Exercise of Power Act, California Government Code sections 6500 et seq., among the County of Alameda, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City to study, promote, develop, conduct, operate, and manage energy-related climate change programs in all of the member jurisdictions. The cities of Newark and Pleasanton, located in Alameda County, along with the City of Tracy, located in San Joaquin County, were added as members of Ava and parties to the Joint Powers Authority (JPA) in November of 2019. The City of Stockton, located in San Joaquin County was added as a member of Ava and party to the JPA in September of 2022. The City of Lathrop, located in San Joaquin County, was added as a member to Ava and party to the JPA in October of 2023. On October 24, 2023, the Authority legally adopted the name Ava Community Energy Authority, where it had previously used the name East Bay Community Energy Authority since its inception.

**WHEREAS** the Board of Directors has approved Resolution **XX** to authorize San Joaquin County to become a member of Ava, with enrollments expected to begin in 2026;

**WHEREAS** on February 8, 2018, the California Public Utilities Commission ("CPUC") passed Resolution E-4907, which requires a one year waiting period for jurisdictions intending to form or join a community choice aggregation ("CCA") program, like Ava;

**WHEREAS** in order to begin enrolling electricity customers in unincorporated San Joaquin County by 2026, Ava must submit to the CPUC an updated Implementation Plan and Statement of Intent ("Implementation Plan") reflecting the inclusion of this new member jurisdiction before the end of the 2024 calendar year.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF AVA COMMUNITY ENERGY AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:**

Section 1. The Board hereby authorizes Ava staff to update Ava's Implementation Plan, reflecting the membership of San Joaquin County.

Section 2. The Board hereby directs staff to submit the updated Implementation Plan to the CPUC for certification as soon as reasonably feasible, before December 31, 2024.

ADOPTED AND APPROVED this 17<sup>th</sup> day of July, 2024.

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Jack Balch, Chair

ATTEST:

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Adrian Bankhead, Clerk of the Board

**Ava Community Energy Authority**

**- Joint Powers Agreement –**

Effective December 1, 2016

As amended by Resolution No. 2018-23 dated June 20, 2018

As further amended by Resolution No. R-2022-28 dated September 21, 2022

As further amended by Resolution No. 2023-48 dated September 20, 2023

As further amended by Resolution No. 2023-54 dated October 18, 2023

Among The Following Parties:

County of Alameda

City of Albany

City of Berkeley

City of Dublin

City of Emeryville

City of Fremont

City of Hayward

City of Lathrop

City of Livermore

City of Newark

City of Oakland

City of Piedmont

City of Pleasanton

City of San Leandro

City of Stockton

City of Tracy

City of Union City

## AVA COMMUNITY ENERGY AUTHORITY

### JOINT POWERS AGREEMENT

This Joint Powers Agreement (“Agreement”), effective as of December 1, 2016, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 *et seq.*) of the California Government Code relating to the joint exercise of powers among the parties set forth in Exhibit A (“Parties”). The term “Parties” shall also include an incorporated municipality or county added to this Agreement in accordance with Section 3.1.

#### RECITALS

1. The Parties are either incorporated municipalities or counties sharing various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and their inhabitants.
2. In 2006, the State Legislature adopted AB 32, the Global Warming Solutions Act, which mandates a reduction in greenhouse gas emissions in 2020 to 1990 levels. The California Air Resources Board is promulgating regulations to implement AB 32 which will require local government to develop programs to reduce greenhouse gas emissions.
3. The purposes for the Initial Participants (as such term is defined in Section 1.1.16 below) entering into this Agreement include securing electrical energy supply for customers in participating jurisdictions, addressing climate change by reducing energy related greenhouse gas emissions, promoting electrical rate price stability, and fostering local economic benefits such as jobs creation, community energy programs and local power development. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to State, regional and local solar and wind energy production.
4. The Parties desired to establish a separate public agency, known as the East Bay Community Energy Authority (“Authority”), under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq.*) (“Act”) in order to collectively study, promote, develop, conduct, operate, and manage energy programs.
5. The Initial Participants each adopted an ordinance electing to implement through the Authority a Community Choice Aggregation program pursuant to California Public Utilities Code Section 366.2 (“CCA Program”). The first priority of the Authority will be the consideration of those actions necessary to implement the CCA Program.
6. By establishing the Authority, the Parties seek to:
  - (a) Provide electricity rates that are lower or competitive with those offered by PG&E for similar products;

- (b) Offer differentiated energy options (e.g. 33% or 50% qualified renewable) for default service, and a 100% renewable content option in which customers may “opt-up” and voluntarily participate;
  - (c) Develop an electric supply portfolio with a lower greenhouse gas (GHG) intensity than PG&E, and one that supports the achievement of the parties’ greenhouse gas reduction goals and the comparable goals of all participating jurisdictions;
  - (d) Establish an energy portfolio that prioritizes the use and development of local renewable resources and minimizes the use of unbundled renewable energy credits;
  - (e) Promote an energy portfolio that incorporates energy efficiency and demand response programs and has aggressive reduced consumption goals;
  - (f) Demonstrate quantifiable economic benefits to the region (e.g. union and prevailing wage jobs, local workforce development, new energy programs, and increased local energy investments);
  - (g) Recognize the value of workers in existing jobs that support the energy infrastructure of Alameda County and Northern California. The Authority, as a leader in the shift to a clean energy, commits to ensuring it will take steps to minimize any adverse impacts to these workers to ensure a “just transition” to the new clean energy economy;
  - (h) Deliver clean energy programs and projects using a stable, skilled workforce through such mechanisms as project labor agreements, or other workforce programs that are cost effective, designed to avoid work stoppages, and ensure quality;
  - (i) Promote personal and community ownership of renewable resources, spurring equitable economic development and increased resilience, especially in low income communities;
  - (j) Provide and manage lower cost energy supplies in a manner that provides cost savings to low-income households and promotes public health in areas impacted by energy production; and
  - (k) Create an administering agency that is financially sustainable, responsive to regional priorities, well managed, and a leader in fair and equitable treatment of employees through adopting appropriate best practices employment policies, including, but not limited to, promoting efficient consideration of petitions to unionize, and providing appropriate wages and benefits.
- (l) The Parties desire to change the name of the agency from East Bay Community Energy Authority to Ava Community Energy Authority.



## 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:

### ARTICLE 1 CONTRACT DOCUMENTS

**1.1 Definitions.** Capitalized terms used in the Agreement shall have the meanings specified below, unless the context requires otherwise.

- 1.1.1 “AB 117” means Assembly Bill 117 (Stat. 2002, ch. 838, codified at Public Utilities Code Section 366.2), which created CCA.
- 1.1.2 “Act” means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq.*)
- 1.1.3 “Agreement” means this Joint Powers Agreement.
- 1.1.4 “Annual Energy Use” has the meaning given in Section 1.1.23.
- 1.1.5 “Authority” means the Ava Community Energy Authority established pursuant to this Joint Powers Agreement.
- 1.1.6 “Authority Document(s)” means document(s) duly adopted by the Board by resolution or motion implementing the powers, functions and activities of the Authority, including but not limited to the Operating Rules and Regulations, the annual budget, and plans and policies.
- 1.1.7 “Board” means the Board of Directors of the Authority.
- 1.1.8 “Community Choice Aggregation” or “CCA” means an electric service option available to cities and counties pursuant to Public Utilities Code Section 366.2.
- 1.1.9 “CCA Program” means the Authority’s program relating to CCA that is principally described in Sections 2.4 and 5.1.
- 1.1.10 “Days” shall mean calendar days unless otherwise specified by this Agreement.
- 1.1.11 “Director” means a member of the Board of Directors representing a Party, including an alternate Director.
- 1.1.12 “Effective Date” means the date on which this Agreement shall become effective and the Ava Community Energy Authority shall exist as a separate public agency, as further described in Section 2.1.

- 1.1.13** “Ex Officio Board Member” means a non-voting member of the Board of Directors as described in Section 4.2.2. The Ex Officio Board Member may not serve on the Executive Committee of the Board or participate in closed session meetings of the Board.
- 1.1.14** “Implementation Plan” means the plan generally described in Section 5.1.2 of this Agreement that is required under Public Utilities Code Section 366.2 to be filed with the California Public Utilities Commission for the purpose of describing a proposed CCA Program.
- 1.1.15** “Initial Costs” means all costs incurred by the Authority relating to the establishment and initial operation of the Authority, such as the hiring of a Chief Executive Officer and any administrative staff, any required accounting, administrative, technical and legal services in support of the Authority’s initial formation activities or in support of the negotiation, preparation and approval of power purchase agreements. The Board shall determine the termination date for Initial Costs.
- 1.1.16** “Initial Participants” means, for the purpose of this Agreement the County of Alameda, the Cities of Albany, Berkeley, Emeryville, Oakland, Piedmont, San Leandro, Hayward, Union City, Fremont, Dublin, and Livermore.
- 1.1.17** “Operating Rules and Regulations” means the rules, regulations, policies, bylaws and procedures governing the operation of the Authority.
- 1.1.18** “Parties” means, collectively, the signatories to this Agreement that have satisfied the conditions in Sections 2.2 or 3.1 such that it is considered a member of the Authority.
- 1.1.19** “Party” means, singularly, a signatory to this Agreement that has satisfied the conditions in Sections 2.2 or 3.1 such that it is considered a member of the Authority.
- 1.1.20** “Percentage Vote” means a vote taken by the Board pursuant to Section 4.12.1 that is based on each Party having one equal vote.
- 1.1.21** “Total Annual Energy” has the meaning given in Section 1.1.23.
- 1.1.22** “Voting Shares Vote” means a vote taken by the Board pursuant to Section 4.12.2 that is based on the voting shares of each Party described in Section 1.1.23 and set forth in Exhibit C to this Agreement. A Voting Shares vote cannot take place on a matter unless the matter first receives an affirmative or tie Percentage Vote in the manner required by Section 4.12.1 and three or more Directors immediately thereafter request such vote.

**1.1.23** “Voting Shares Formula” means the weight applied to a Voting Shares Vote and is determined by the following formula:

(Annual Energy Use/Total Annual Energy) multiplied by 100, where (a) “Annual Energy Use” means (i) with respect to the first two years following the Effective Date, the annual electricity usage, expressed in kilowatt hours (“kWh”), within the Party’s respective jurisdiction and (ii) with respect to the period after the second anniversary of the Effective Date, the annual electricity usage, expressed in kWh, of accounts within a Party’s respective jurisdiction that are served by the Authority and (b) “Total Annual Energy” means the sum of all Parties’ Annual Energy Use. The initial values for Annual Energy use are designated in Exhibit B and the initial voting shares are designated in Exhibit C. Both Exhibits B and C shall be adjusted annually as soon as reasonably practicable after January 1, but no later than March 1 of each year subject to the approval of the Board.

**1.2** **Documents Included.** This Agreement consists of this document and the following exhibits, all of which are hereby incorporated into this Agreement.

- Exhibit A: List of the Parties
- Exhibit B: Annual Energy Use
- Exhibit C: Voting Shares

**1.3** **Revision of Exhibits.** The Parties agree that Exhibits A, B and C to this Agreement describe certain administrative matters that may be revised upon the approval of the Board, without such revision constituting an amendment to this Agreement, as described in Section 8.4. The Authority shall provide written notice to the Parties of the revision of any such exhibit.

**ARTICLE 2**  
**FORMATION OF AVA COMMUNITY ENERGY AUTHORITY (FORMERLY EAST BAY COMMUNITY ENERGY AUTHORITY)**

**2.1** **Effective Date and Term.** This Agreement shall become effective and Ava Community Energy Authority shall exist as a separate public agency on December 1, 2016, provided that this Agreement is executed on or prior to such date by at least three Initial Participants after the adoption of the ordinances required by Public Utilities Code Section 366.2(c)(12). The Authority shall provide notice to the Parties of the Effective Date. The Authority shall continue to exist, and this Agreement shall be effective, until this Agreement is terminated in accordance with Section 7.3, subject to the rights of the Parties to withdraw from the Authority.

**2.2** **Initial Participants.** Until December 31, 2016, all other Initial Participants may become a Party by executing this Agreement and delivering an executed copy of this Agreement and a copy of the adopted ordinance required by Public Utilities Code Section 366.2(c)(12) to the

Authority. Additional conditions, described in Section 3.1, may apply (i) to either an incorporated municipality or county desiring to become a Party that is not an Initial Participant and (ii) to Initial Participants that have not executed and delivered this Agreement within the time period described above.

**2.3 Formation.** There is formed as of the Effective Date a public agency named the East Bay Community Energy Authority, later renamed Ava Community Energy Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public agency separate from the Parties. The debts, liabilities or obligations of the Authority shall not be debts, liabilities or obligations of the individual Parties unless the governing board of a Party agrees in writing to assume any of the debts, liabilities or obligations of the Authority. A Party who has not agreed to assume an Authority debt, liability or obligation shall not be responsible in any way for such debt, liability or obligation even if a majority of the Parties agree to assume the debt, liability or obligation of the Authority. Notwithstanding Section 8.4 of this Agreement, this Section 2.3 may not be amended unless such amendment is approved by the governing boards of all Parties.

**2.4 Purpose.** The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party and any other powers granted to the Authority under state law to participate as a group in the CCA Program pursuant to Public Utilities Code Section 366.2(c)(12); to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs; and, to exercise all other powers necessary and incidental to accomplishing this purpose.

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

- 2.5.1** to make and enter into contracts, including those relating to the purchase or sale of electrical energy or attributes thereof;
- 2.5.2** to employ agents and employees, including but not limited to a Chief Executive Officer and General Counsel;
- 2.5.3** to acquire, contract, manage, maintain, and operate any buildings, works or improvements, including electric generating facilities;
- 2.5.4** to acquire property by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property;
- 2.5.5** to lease any property;
- 2.5.6** to sue and be sued in its own name;
- 2.5.7** to incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers such as Government Code Section 53850 *et seq.* and authority under the Act;

- 2.5.8 to form subsidiary or independent corporations or entities, if appropriate, to carry out energy supply and energy conservation programs at the lowest possible cost consistent with the Authority's CCA Program implementation plan, risk management policies, or to take advantage of legislative or regulatory changes;
- 2.5.9 to issue revenue bonds and other forms of indebtedness;
- 2.5.10 to apply for, accept, and receive all licenses, permits, grants, loans or other assistance from any federal, state or local public agency;
- 2.5.11 to submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCA Program and other energy programs;
- 2.5.12 to adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority ("Operating Rules and Regulations");
- 2.5.13 to make and enter into service, energy and any other agreements necessary to plan, implement, operate and administer the CCA Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services; and
- 2.5.14 to negotiate project labor agreements, community benefits agreements and collective bargaining agreements with the local building trades council and other interested parties.

**2.6 Limitation on Powers.** As required by Government Code Section 6509, the power of the Authority is subject to the restrictions upon the manner of exercising power possessed by the City of Emeryville and any other restrictions on exercising the powers of the Authority that may be adopted by the Board.

**2.7 Compliance with Local Zoning and Building Laws.** Notwithstanding any other provisions of this Agreement or state law, any facilities, buildings or structures located, constructed or caused to be constructed by the Authority within the territory of the Authority shall comply with the General Plan, zoning and building laws of the local jurisdiction within which the facilities, buildings or structures are constructed and comply with the California Environmental Quality Act ("CEQA").

**2.8 Compliance with the Brown Act.** The Authority and its officers and employees shall comply with the provisions of the Ralph M. Brown Act, Government Code Section 54950 *et seq.*

**2.9 Compliance with the Political Reform Act and Government Code Section 1090.** The Authority and its officers and employees shall comply with the Political Reform Act (Government Code Section 81000 *et seq.*) and Government Code Section 1090 *et seq.*, and shall adopt a Conflict of Interest Code pursuant to Government Code Section 87300. The Board of

Directors may adopt additional conflict of interest regulations in the Operating Rules and Regulations.

### **ARTICLE 3** **AUTHORITY PARTICIPATION**

**3.1 Addition of Parties.** Subject to Section 2.2, relating to certain rights of Initial Participants, other incorporated municipalities and counties may become Parties upon (a) the adoption of a resolution by the governing body of such incorporated municipality or county requesting that the incorporated municipality or county, as the case may be, become a member of the Authority, (b) the adoption by an affirmative vote of a majority of all Directors of the entire Board satisfying the requirements described in Section 4.12, of a resolution authorizing membership of the additional incorporated municipality or county, specifying the membership payment, if any, to be made by the additional incorporated municipality or county to reflect its pro rata share of organizational, planning and other pre-existing expenditures, and describing additional conditions, if any, associated with membership, (c) the adoption of an ordinance required by Public Utilities Code Section 366.2(c)(12) and execution of this Agreement and other necessary program agreements by the incorporated municipality or county, (d) payment of the membership fee, if any, and (e) satisfaction of any conditions established by the Board.

**3.2 Continuing Participation.** The Parties acknowledge that membership in the Authority may change by the addition and/or withdrawal or termination of Parties. The Parties agree to participate with such other Parties as may later be added, as described in Section 3.1. The Parties also agree that the withdrawal or termination of a Party shall not affect this Agreement or the remaining Parties' continuing obligations under this Agreement.

### **ARTICLE 4** **GOVERNANCE AND INTERNAL ORGANIZATION**

**4.1 Board of Directors.** The governing body of the Authority shall be a Board of Directors ("Board") consisting of one director for each Party appointed in accordance with Section 4.2.

**4.2 Appointment of Directors.** The Directors shall be appointed as follows:

**4.2.1** The governing body of each Party shall appoint and designate in writing one regular Director who shall be authorized to act for and on behalf of the Party on matters within the powers of the Authority. The governing body of each Party also shall appoint and designate in writing one alternate Director who may vote on matters when the regular Director is absent from a Board meeting. The person appointed and designated as the regular Director shall be a member of the governing body of the Party at the time of appointment but may continue to serve as a Director following his/her term as a member of the Party's governing body until a new Director is appointed pursuant to the timing in Section 4.3. The person appointed and designated as the alternate Director shall also be a member of the governing body of a Party and the alternate may continue to serve

as an alternate following his/her term as a member of a Party's governing body until a new alternate is appointed pursuant to the timing in Section 4.3.

- 4.2.2 The Board shall also include one non-voting ex officio member as defined in Section 1.1.13 ("Ex Officio Board Member"). The Chair of the Community Advisory Committee, as described in Section 4.9 below, shall serve as the Ex Officio Board Member. The Vice Chair of the Community Advisory Committee shall serve as an alternate Ex Officio Board Member when the regular Ex Officio Board Member is absent from a Board meeting.
- 4.2.3 The Operating Rules and Regulations, to be developed and approved by the Board in accordance with Section 2.5.12 may include rules regarding Directors, such as meeting attendance requirements. No Party shall be deprived of its right to seat a Director on the Board.

**4.3 Term of Office.** Each regular and alternate Director shall serve at the pleasure of the governing body of the Party that the Director represents and may be removed as Director by such governing body at the time. If at any time a vacancy occurs on the Board because a Director is no longer a member of a Party's governing body, the Party shall appoint a replacement to fill the position of the previous Director in accordance with the provisions of Section 4.2.1 within ninety (90) days of the date that such Director is no longer a member of a Party's governing body or for any other reason that such position becomes vacant.

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

**4.5 Powers and Function of the Board.** The Board shall conduct or authorize to be conducted all business and activities of the Authority, consistent with this Agreement, the Authority Documents, the Operating Rules and Regulations, and applicable law. Board approval shall be required for any of the following actions, which are defined as "Essential Functions":

- 4.5.1 The issuance of bonds or any other financing even if program revenues are expected to pay for such financing.
- 4.5.2 The hiring of a Chief Executive Officer and General Counsel.
- 4.5.3 The appointment or removal of an officer.
- 4.5.4 The adoption of the Annual Budget.
- 4.5.5 The adoption of an ordinance.
- 4.5.6 The initiation of resolution of claims and litigation where the Authority will be the defendant, plaintiff, petitioner, respondent, cross complainant or cross petitioner, or intervenor; provided, however, that the Chief

Executive Officer or General Counsel, on behalf of the Authority, may intervene in, become party to, or file comments with respect to any proceeding pending at the California Public Utilities Commission, the Federal Energy Regulatory Commission, or any other administrative agency, without approval of the Board. The Board shall adopt Operating Rules and Regulations governing the Chief Executive Officer and General Counsel's exercise of authority under this Section 4.5.6.

**4.5.7** The setting of rates for power sold by the Authority and the setting of charges for any other category of service provided by the Authority.

**4.5.8** Termination of the CCA Program.

**4.6 Executive Committee.** The Board shall establish an Executive Committee consisting of a smaller number of Directors. The Board may delegate to the Executive Committee such authority as the Board might otherwise exercise, subject to limitations placed on the Board's authority to delegate certain Essential Functions, as described in Section 4.5 and the Operating Rules and Regulations. The Board may not delegate to the Executive Committee or any other committee its authority under Section 2.5.12 to adopt and amend the Operating Rules and Regulations or its Essential Functions listed in Section 4.5. After the Executive Committee meets or otherwise takes action, it shall, as soon as practicable, make a report of its activities at a meeting of the Board.

**4.7 Director Compensation.** Directors shall receive a stipend of \$100 per meeting, as adjusted to account for inflation, as provided for in the Authority's Operating Rules and Regulations.

**4.8 Commissions, Boards and Committees.** The Board may establish any advisory commissions, boards and committees as the Board deems appropriate to assist the Board in carrying out its functions and implementing the CCA Program, other energy programs and the provisions of this Agreement. The Board may establish rules, regulations, policies, bylaws or procedures to govern any such commissions, boards, or committees and shall determine whether members shall be compensated or entitled to reimbursement for expenses.

**4.9 Community Advisory Committee.** The Board shall establish a Community Advisory Committee consisting of nine members and three alternates, none of whom may be voting members of the Board. One alternate from the pool of three alternates may take the place of a Community Advisory Member when a Community Advisory Committee member cannot attend a meeting. The Community Advisory Committee member that is unable to attend a meeting must notify the alternates of their inability to attend and obtain confirmation that one of the Alternates can attend the Community Advisory Committee meeting in that member's place. The function of the Community Advisory Committee shall be to advise the Board of Directors on all subjects related to the operation of the CCA Program as set forth in a work plan adopted by the Board of Directors from time to time, with the exception of personnel and litigation decisions. The Community Advisory Committee is advisory only, and shall not have decision making authority, or receive any delegation of authority from the Board of Directors. The Board shall publicize the opportunity to serve on the Community Advisory Committee and shall



appoint members of the Community Advisory Committee and Alternates from those individuals expressing interest in serving, and who represent a diverse cross-section of interests, skill sets and geographic regions. Members of the Community Advisory Committee shall serve staggered four-years terms (the first term of three of the members shall be two years, and four years thereafter), which may be renewed. A member or Alternate of the Community Advisory Committee may be removed by the Board of Directors by majority vote. The Board of Directors shall determine whether the Community Advisory Committee members will receive a stipend or be entitled to reimbursement of expenses.

**4.10 Chief Executive Officer.** The Board of Directors shall appoint a Chief Executive Officer for the Authority, who shall be responsible for the day-to-day operation and management of the Authority and the CCA Program. The Chief Executive Officer may exercise all powers of the Authority, including the power to hire, discipline and terminate employees as well as the power to approve any agreement, if the expenditure is authorized in the Authority's approved budget, except the powers specifically set forth in Section 4.5 or those powers which by law must be exercised by the Board of Directors. The Board of Directors shall provide procedures and guidelines for the Chief Executive Officer exercising the powers of the Authority in the Operating Rules and Regulations.

**4.11 General Counsel.** The Board of Directors shall appoint a General Counsel for the Authority, who shall be responsible for providing legal advice to the Board of Directors and overseeing all legal work for the Authority.

**4.12 Board Voting.**

**4.12.1 Percentage Vote.** Except when a supermajority vote is expressly required by this Agreement or the Operating Rules and Regulations, action of the Board on all matters shall require an affirmative vote of a majority of all Directors on the entire Board (a "Percentage Vote" as defined in Section 1.1.20). A supermajority vote is required by this Agreement for the matters addressed by Section 8.4. When a supermajority vote is required by this Agreement or the Operating Rules and Regulations, action of the Board shall require an affirmative Percentage Vote of the specified supermajority of all Directors on the entire Board. No action can be taken by the Board without an affirmative Percentage Vote. Notwithstanding the foregoing, in the event of a tie in the Percentage Vote, an action may be approved by an affirmative "Voting Shares Vote," as defined in Section 1.1.22, if three or more Directors immediately request such vote.

**4.12.2 Voting Shares Vote.** In addition to and immediately after an affirmative percentage vote, three or more Directors may request that, a vote of the voting shares shall be held (a "Voting Shares Vote" as defined in Section 1.1.22). To approve an action by a Voting Shares Vote, the corresponding voting shares (as defined in Section 1.1.23 and Exhibit C) of all Directors voting in the affirmative shall exceed 50% of the voting share of all Directors on the entire Board, or such other higher voting shares percentage expressly required by this Agreement or the Operating Rules

and Regulations. In the event that any one Director has a voting share that equals or exceeds that which is necessary to disapprove the matter being voted on by the Board, at least one other Director shall be required to vote in the negative in order to disapprove such matter. When a voting shares vote is held, action by the Board requires both an affirmative Percentage Vote and an affirmative Voting Shares Vote. Notwithstanding the foregoing, in the event of a tie in the Percentage Vote, an action may be approved on an affirmative Voting Shares Vote. When a supermajority vote is required by this Agreement or the Operating Rules and Regulations, the supermajority vote is subject to the Voting Share Vote provisions of this Section 4.12.2, and the specified supermajority of all Voting Shares is required for approval of the action, if the provision of this Section 4.12.2 are triggered.

**4.13 Meetings and Special Meetings of the Board.** The Board shall hold at least four regular meetings per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour and place of each regular meeting shall be fixed by resolution or ordinance of the Board. Regular meetings may be adjourned to another meeting time. Special and Emergency meetings of the Board may be called in accordance with the provisions of California Government Code Section 54956 and 54956.5. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law.

**4.14 Officers.**

**4.14.1 Chair and Vice Chair.** Prior to the end of the fiscal year, the Directors shall elect, from among themselves, a Chair, who shall be the presiding officer of all Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The newly elected Chair and Vice Chair shall commence serving in those capacities on July 1, except that no separate election shall be required for Fiscal Year 2018-2019 and the Chair and Vice Chair elected in 2018 shall continue to serve until the end of the 2018-2019 Fiscal Year. The Chair and Vice Chair shall hold office for one year and serve no more than two consecutive terms, however, the total number of terms a Director may serve as Chair or Vice Chair is not limited. The office of either the Chair or Vice Chair shall be declared vacant and the Board shall make a new selection if: (a) the person serving dies, resigns, or ceases to be a member of the governing body of a Party that person represents, except if the person is continuing to serve on the Board after that person no longer serves on the governing body in conformance with section 4.2.1; (b) the Party that the person represents removes the person as its representative on the Board, or (c) the Party that the person represents withdraws from the Authority pursuant to the provisions of this Agreement.

**4.14.2 Secretary.** The Board shall appoint a Secretary, who need not be a member of the Board, who shall be responsible for keeping the minutes of all meetings of the Board and all other official records of the Authority.

**4.14.3 Treasurer and Auditor.** The Board shall appoint a qualified person to act as the Treasurer and a qualified person to act as the Auditor, neither of whom needs to be a member of the Board. The same person may not simultaneously hold both the office of Treasurer and the office of the Auditor of the Authority. Unless otherwise exempted from such requirement, the Authority shall cause an independent audit to be made annually by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall act as the depository of the Authority and have custody of all the money of the Authority, from whatever source, and as such, shall have all of the duties and responsibilities specified in Section 6505.5 of the Act. The Board may require the Treasurer and/or Auditor to file with the Authority an official bond in an amount to be fixed by the Board, and if so requested, the Authority shall pay the cost of premiums associated with the bond. 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 Treasurer to any person or entity as the law may provide at the time.

**4.15 Administrative Services Provider.** The Board may appoint one or more administrative services providers to serve as the Authority's agent for planning, implementing, operating and administering the CCA Program, and any other program approved by the Board, in accordance with the provisions of an Administrative Services Agreement. The appointed administrative services provider may be one of the Parties. The Administrative Services Agreement shall set forth the terms and conditions by which the appointed administrative services provider shall perform or cause to be performed all tasks necessary for planning, implementing, operating and administering the CCA Program and other approved programs. The Administrative Services Agreement shall set forth the term of the Agreement and the circumstances under which the Administrative Services Agreement may be terminated by the Authority. This section shall not in any way be construed to limit the discretion of the Authority to hire its own employees to administer the CCA Program or any other program.

**4.16 Operational Audit.** The Authority shall commission an independent agent to conduct and deliver at a public meeting of the Board an evaluation of the performance of the CCA Program relative to goals for renewable energy and carbon reductions. The Authority shall approve a budget for such evaluation and shall hire a firm or individual that has no other direct or indirect business relationship with the Authority. The evaluation shall be conducted at least once every two years.

## **ARTICLE 5**

### **IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS**

#### **5.1 Implementation of the CCA Program.**

**5.1.1 Enabling Ordinance.** Prior to the execution of this Agreement, each Party shall adopt an ordinance in accordance with Public Utilities Code

Section 366.2(c)(12) for the purpose of specifying that the Party intends to implement a CCA Program by and through its participation in the Authority.

**5.1.2 Implementation Plan.** The Authority shall cause to be prepared an Implementation Plan meeting the requirements of Public Utilities Code Section 366.2 and any applicable Public Utilities Commission regulations as soon after the Effective Date as reasonably practicable. The Implementation Plan shall not be filed with the Public Utilities Commission until it is approved by the Board in the manner provided by Section 4.12.

**5.1.3 Termination of CCA Program.** Nothing contained in this Article or this Agreement shall be construed to limit the discretion of the Authority to terminate the implementation or operation of the CCA Program at any time in accordance with any applicable requirements of state law.

**5.2 Other Authority Documents.** The Parties acknowledge and agree that the operations of the Authority will be implemented through various documents duly adopted by the Board through Board resolution or minute action, including but not necessarily limited to the Operating Rules and Regulations, the annual budget, and specified plans and policies defined as the Authority Documents by this Agreement. The Parties agree to abide by and comply with the terms and conditions of all such Authority Documents that may be adopted by the Board, subject to the Parties' right to withdraw from the Authority as described in Article 7.

**5.3 Integrated Resource Plan.** The Authority shall cause to be prepared an Integrated Resource Plan in accordance with CPUC regulations that will ensure the long-term development and administration of a variety of energy programs that promote local renewable resources, conservation, demand response, and energy efficiency, while maintaining compliance with the State Renewable Portfolio standard and customer rate competitiveness. The Authority shall prioritize the development of energy projects in Alameda and adjacent counties. Principal aspects of its planned operations shall be in a Business Plan as outlined in Section 5.4 of this Agreement.

**5.4 Business Plan.** The Authority shall cause to be prepared a Business Plan, which will include a roadmap for the development, procurement, and integration of local renewable energy resources as outlined in Section 5.3 of this Agreement. The Business Plan shall include a description of how the CCA Program will contribute to fostering local economic benefits, such as job creation and community energy programs. The Business Plan shall identify opportunities for local power development and how the CCA Program can achieve the goals outlined in Recitals 3 and 6 of this Agreement. The Business Plan shall include specific language detailing employment and labor standards that relate to the execution of the CCA Program as referenced in this Agreement. The Business Plan shall identify clear and transparent marketing practices to be followed by the CCA Program, including the identification of the sources of its electricity and explanation of the various types of electricity procured by the Authority. The Business Plan shall cover the first five (5) years of the operation of the CCA Program. Progress on the implementation of the Business Plan shall be subject to annual public review.

**5.5 Labor Organization Neutrality.** The Authority shall remain neutral in the event its employees, and the employees of its subcontractors, if any, wish to unionize.

**5.6 Renewable Portfolio Standards.** The Authority shall provide its customers renewable energy primarily from Category 1 eligible renewable resources, as defined under the California RPS and consistent with the goals of the CCA Program. The Authority shall not procure energy from Category 3 eligible renewable resources (unbundled Renewable Energy Credits or RECs) exceeding 50% of the State law requirements, to achieve its renewable portfolio goals. However, for Category 3 RECs associated with generation facilities located within its service jurisdiction, the limitation set forth in the preceding sentence shall not apply.

## **ARTICLE 6** **FINANCIAL PROVISIONS**

**6.1 Fiscal Year.** The Authority's fiscal year shall be 12 months commencing July 1 and ending June 30. The fiscal year may be changed by Board resolution.

**6.2 Depository.**

**6.2.1** All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with funds of any Party or any other person or entity.

**6.2.2** All funds of the Authority shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of the Authority shall be open to inspection by the Parties at all reasonable times.

**6.2.3** All expenditures shall be made in accordance with the approved budget and upon the approval of any officer so authorized by the Board in accordance with its Operating Rules and Regulations. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the prior approval of the Board.

**6.3 Budget and Recovery Costs.**

**6.3.1 Budget.** The initial budget shall be approved by the Board. The Board may revise the budget from time to time through an Authority Document as may be reasonably necessary to address contingencies and unexpected expenses. All subsequent budgets of the Authority shall be prepared and approved by the Board in accordance with the Operating Rules and Regulations.

**6.3.2 Funding of Initial Costs.** The County shall fund the Initial Costs of establishing and implementing the CCA Program. In the event that the CCA Program becomes operational, these Initial Costs paid by the County and any specified interest shall be included in the customer charges for

electric services to the extent permitted by law, and the County shall be reimbursed from the payment of such charges by customers of the Authority. The Authority may establish a reasonable time period over which such costs are recovered. In the event that the CCA Program does not become operational, the County shall not be entitled to any reimbursement of the Initial Costs.

- 6.3.4 Additional Contributions and Advances.** Pursuant to Government Code Section 6504, the Parties may in their sole discretion make financial contributions, loans or advances to the Authority for the purposes of the Authority set forth in this Agreement. The repayment of such contributions, loans or advances will be on the written terms agreed to by the Party making the contribution, loan or advance and the Authority.

## **ARTICLE 7**

### **WITHDRAWAL AND TERMINATION**

#### **7.1 Withdrawal.**

- 7.1.1 General Right to Withdraw.** A Party may withdraw its membership in the Authority, effective as of the beginning of the Authority's fiscal year, by giving no less than 180 days advance written notice of its election to do so, which notice shall be given to the Authority and each Party. Withdrawal of a Party shall require an affirmative vote of the Party's governing board.
- 7.1.2 Withdrawal Following Amendment.** Notwithstanding Section 7.1.1, a Party may withdraw its membership in the Authority following an amendment to this Agreement provided that the requirements of this Section 7.1.2 are strictly followed. A Party shall be deemed to have withdrawn its membership in the Authority effective 180 days after the Board approves an amendment to this Agreement if the Director representing such Party has provided notice to the other Directors immediately preceding the Board's vote of the Party's intention to withdraw its membership in the Authority should the amendment be approved by the Board.
- 7.1.3 The Right to Withdraw Prior to Program Launch.** After receiving bids from power suppliers for the CCA Program, the Authority must provide to the Parties a report from the electrical utility consultant retained by the Authority comparing the Authority's total estimated electrical rates, the estimated greenhouse gas emissions rate and the amount of estimated renewable energy to be used with that of the incumbent utility. Within 30 days after receiving this report, through its City Manager or a person expressly authorized by the Party, any Party may immediately withdraw its membership in the Authority by providing written notice of withdrawal to the Authority if the report determines that any one of the following

conditions exists: (1) the Authority is unable to provide total electrical rates, as part of its baseline offering to customers, that are equal to or lower than the incumbent utility, (2) the Authority is unable to provide electricity in a manner that has a lower greenhouse gas emissions rate than the incumbent utility, or (3) the Authority will use less qualified renewable energy than the incumbent utility. Any Party who withdraws from the Authority pursuant to this Section 7.1.3 shall not be entitled to any refund of the Initial Costs it has paid to the Authority prior to the date of withdrawal unless the Authority is later terminated pursuant to Section 7.3. In such event, any Initial Costs not expended by the Authority shall be returned to all Parties, including any Party that has withdrawn pursuant to this section, in proportion to the contribution that each made. Notwithstanding anything to the contrary in this Agreement, any Party who withdraws pursuant to this section shall not be responsible for any liabilities or obligations of the Authority after the date of withdrawal, including without limitation any liability arising from power purchase agreements entered into by the Authority.

**7.2 Continuing Liability After Withdrawal; Further Assurances; Refund.** A Party that withdraws its membership in the Authority under either Section 7.1.1 or 7.1.2 shall be responsible for paying its fair share of costs incurred by the Authority resulting from the Party's withdrawal, including costs from the resale of power contracts by the Authority to serve the Party's load and any similar costs directly attributable to the Party's withdrawal, such costs being limited to those contracts executed while the withdrawing Party was a member, and administrative costs associated thereto. The Parties agree that such costs shall not constitute a debt of the withdrawing Party, accruing interest, or having a maturity date. The Authority may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority, to cover the Party's costs described above. Any amount of the Party's funds held by the Authority for the benefit of the Party that are not required to pay the Party's costs described above shall be returned to the Party. The withdrawing party and the Authority shall execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from membership in the Authority. A withdrawing party has the right to continue to participate in Board discussions and decisions affecting customers of the CCA Program that reside or do business within the jurisdiction of the Party until the withdrawal's effective date.

**7.3 Mutual Termination.** This Agreement may be terminated by mutual agreement of all the Parties; provided, however, the foregoing shall not be construed as limiting the rights of a Party to withdraw its membership in the Authority, and thus terminate this Agreement with respect to such withdrawing Party, as described in Section 7.1.

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

**ARTICLE 8**  
**MISCELLANEOUS PROVISIONS**

**8.1 Dispute Resolution.** The Parties and the Authority shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. Before exercising any remedy provided by law, a Party or the Parties and the Authority shall engage in nonbinding mediation in the manner agreed upon by the Party or Parties and the Authority. The Parties agree that each Party may specifically enforce this section 8.1. In the event that nonbinding mediation is not initiated or does not result in the settlement of a dispute within 120 days after the demand for mediation is made, any Party and the Authority may pursue any remedies provided by law.

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

**8.3 Indemnification of Parties.** The Authority shall acquire such insurance coverage as the Board deems necessary to protect the interests of the Authority, the Parties and the public. Such insurance coverage shall name the Parties and their respective Board or Council members, officers, agents and employees as additional insureds. The Authority shall defend, indemnify and hold harmless the Parties and each of their respective Board or Council members, officers, agents and employees, from any and all claims, losses, damages, costs, injuries and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of the Authority under this Agreement.

**8.4 Amendment of this Agreement.** This Agreement may be amended in writing by a two-thirds affirmative vote of the entire Board satisfying the requirements described in Section 4.12. Except that, any amendment to the voting provisions in Section 4.12 may only be made by a three-quarters affirmative vote of the entire Board. The Authority shall provide written notice to the Parties at least 30 days in advance of any proposed amendment being considered by the Board. If the proposed amendment is adopted by the Board, the Authority shall provide prompt written notice to all Parties of the effective date of such amendment along with a copy of the amendment.

**8.5 Assignment.** Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties in contravention of this Section 8.5 shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Parties. This Section 8.5 does not prohibit a Party from entering into an independent agreement with another agency, person, or entity regarding the financing of that Party's contributions to the Authority, or the disposition of



proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the Parties under this Agreement.

**8.6 Severability.** If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Parties, that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provision shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

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

**8.8 Execution by Counterparts.** This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

**8.9 Parties to be Served Notice.** Any notice authorized or required to be given pursuant to this Agreement shall be validly given if served in writing either personally, by deposit in the United States mail, first class postage prepaid with return receipt requested, or by a recognized courier service. Notices given (a) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt and (b) by mail shall be conclusively deemed given 72 hours after the deposit thereof (excluding Saturdays, Sundays and holidays) if the sender receives the return receipt. All notices shall be addressed to the office of the clerk or secretary of the Authority or Party, as the case may be, or such other person designated in writing by the Authority or Party. In addition, a duplicate copy of all notices provided pursuant to this section shall be provided to the Director and alternate Director for each Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties. All notices required hereunder shall be delivered to:

The County of Alameda

Director, Community Development Agency  
224 West Winton Ave.  
Hayward, CA 94612

With a copy to:

Office of the County Counsel  
1221 Oak Street, Suite 450  
Oakland, CA 94612

if to [PARTY No. \_\_\_\_]

Office of the City Clerk

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

Office of the City Manager/Administrator

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

Office of the City Attorney

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

if to [PARTY No. \_\_\_\_ ]

Office of the City Clerk

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

Office of the City Manager/Administrator

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

Office of the City Attorney

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

**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Ava Community Energy Authority.

By: \_\_\_\_\_

Name: \_\_\_\_\_

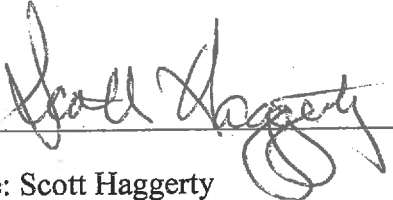
Title: \_\_\_\_\_

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

Party: \_\_\_\_\_

**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: 

Name: Scott Haggerty

Title: Board President

Date: January 4, 2017

Party: County of Alameda

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: 

Andrea L. Weddle  
Chief Assistant County Counsel

224 West Winton Ave.  
Hayward, CA 94612

With a copy to:

Office of the County Counsel  
1221 Oak Street, Suite 450  
Oakland, CA 94612

if to [PARTY No. \_\_\_\_]

Office of the City Clerk

Eileen Harrington, Deputy  
Eileen Harrington 12/2/16

Office of the City Manager/Administrator

Delo  
Delo Crumpley

Office of the City Attorney

Craig Labadie  
Craig Labadie

if to [PARTY No. \_\_\_\_]

Office of the City Clerk

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

Office of the City Manager/Administrator

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

Office of the City Attorney

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

**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: *D. Williams-Ridley*

Name: *Dee Williams-Ridley*

Title: *City Manager*

Date: *December 1, 2016*

Party: *City of Berkeley*

APPROVED AS TO FORM

By *Michael Woo*  
CITY ATTORNEY FOR THE  
CITY OF BERKELEY

Registered by:

*Ann-Monica Hagan*  
City Treasurer

ATTEST for the City of Berkeley

*Wendy Spurr*  
City Clerk

With a copy to:

Office of the County Counsel  
1221 Oak Street, Suite 450  
Oakland, CA 94612

if to [PARTY No. \_\_\_\_]

City of Dublin  
City Manager  
100 Civic Plaza  
Dublin, CA 94568

Meyers Nave  
City Attorney  
555 12<sup>th</sup> Street, Suite 1500  
Oakland, CA 94607

if to [PARTY No. \_\_\_\_ ]

Office of the City Clerk

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Office of the City Manager/Administrator

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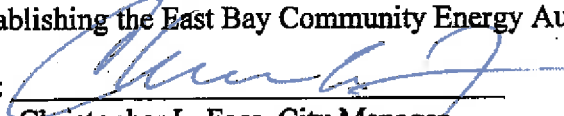
Office of the City Attorney

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**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By:   
\_\_\_\_\_  
Christopher L. Foss, City Manager  
City of Dublin

Date: 12/1/10

Party: \_\_\_\_\_

224 West Winton Ave.  
Hayward, CA 94612

With a copy to:

Office of the County Counsel  
1221 Oak Street, Suite 450  
Oakland, CA 94612

if to: City of Emeryville

Office of the City Clerk  
1333 Park Avenue  
Emeryville, CA 94608

Office of the City Manager  
1333 Park Avenue  
Emeryville, CA 94608

Office of the City Attorney  
1333 Park Avenue  
Emeryville, CA 94608

if to [PARTY No. \_\_\_\_\_ ]

Office of the City Clerk

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Office of the City Manager/Administrator

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Office of the City Attorney

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**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: Carolyn Lehr  
Name: Carolyn Lehr  
Title: City Manager  
Date: 12-1-16  
Party: City of Emeryville

APPROVED AS TO FORM:

Michael A. Guina  
Michael A. Guina, City Attorney

224 West Winton Ave.  
Hayward, CA 94612

With a copy to:

Office of the County Counsel  
1221 Oak Street, Suite 450  
Oakland, CA 94612

if to [PARTY No. \_\_\_\_\_]

**City of Fremont**

Office of the City Clerk  
3300 Capitol Ave., Building A  
Fremont, CA 94538

Office of the City Manager/Administrator  
3300 Capitol Ave., Building A  
Fremont, CA 94538

Office of the City Attorney  
3300 Capitol Ave., Building A  
Fremont, CA 94538

if to [PARTY No. \_\_\_\_\_]

Office of the City Clerk

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Office of the City Manager/Administrator

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Office of the City Attorney

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**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: 

Name: Jessica von Borck

Title: Assistant City Manager

Date: 12-1-16

Party: \_\_\_\_\_

**APPROVED AS TO FORM:**



**Debra S. Margolis**  
**Assistant City Attorney**

The County of Alameda

Director, Community Development Agency  
224 West Winton Ave.  
Hayward, CA 94612

With a copy to:

Office of the County Counsel  
1221 Oak Street, Suite 450  
Oakland, CA 94612

City of Hayward

Office of the City Manager  
City of Hayward  
777 B Street  
Hayward, CA 94541

With a copy to:

Office of the City Attorney  
City of Hayward  
777 B Street  
Hayward, CA 94541

**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

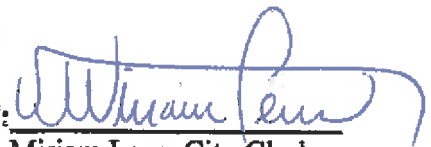
**CITY OF HAYWARD, A Municipal Corporation**

Date of Approval: 12/16/2016



Kelly McAdoo, City Manager

ATTEST:



Miriam Lens, City Clerk

**APPROVED AS TO FORM**



Michael Lawson, City Attorney

224 West Winton Ave.  
Hayward, CA 94612

With a copy to:

Office of the County Counsel  
1221 Oak Street, Suite 450  
Oakland, CA 94612

if to City of Livermore

City Clerk's Office  
1052 South Livermore Avenue  
Livermore, CA 94550

With a copy to:

Public Works Department  
Attn: Public Works Manager  
3500 Robertson Park Road  
Livermore, CA 94550

**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: Marc Roberts

Name: Marc Roberts

Title: City Manager

Date: 1/4/2017

Party: City of Livermore

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to be a stylized 'J' or similar character, written over a horizontal line.

224 West Winton Ave.  
Hayward, CA 94612

With a copy to:

Office of the County Counsel  
1221 Oak Street, Suite 450  
Oakland, CA 94612

if to [PARTY No. \_\_\_\_]

Office of the City Clerk  
1 FRANK H. OGDEN PLAZA  
OAKLAND, CA 94612

Office of the City Manager/Administrator  
1 FRANK H. OGDEN PLAZA  
OAKLAND, CA 94612

Office of the City Attorney  
\_\_\_\_\_  
\_\_\_\_\_

if to [PARTY No. \_\_\_\_]

Office of the City Clerk  
\_\_\_\_\_  
\_\_\_\_\_

Office of the City Manager/Administrator  
\_\_\_\_\_  
\_\_\_\_\_

Office of the City Attorney  
\_\_\_\_\_  
\_\_\_\_\_

**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By:  for SBL

Name: CLAUDIA CAPPIO

Title: ASST CITY ADMINISTRATOR

Date: 12/07/16

Party: CITY OF OAKLAND



**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: J/Wiel

Name: Jeffrey Wiel

Title: Mayor

Date: 12/19/16

Party: City of Piedmont

force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

**8.9 Parties to be Served Notice.** Any notice authorized or required to be given pursuant to this Agreement shall be validly given if served in writing either personally, by deposit in the United States mail, first class postage prepaid with return receipt requested, or by a recognized courier service. Notices given (a) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt and (b) by mail shall be conclusively deemed given 72 hours after the deposit thereof (excluding Saturdays, Sundays and holidays) if the sender receives the return receipt. All notices shall be addressed to the office of the clerk or secretary of the Authority or Party, as the case may be, or such other person designated in writing by the Authority or Party. In addition, a duplicate copy of all notices provided pursuant to this section shall be provided to the Director and alternate Director for each Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties. All notices required hereunder shall be delivered to:

The County of Alameda

Director, Community Development Agency  
224 West Winton Ave.  
Hayward, CA 94612

With a copy to:

Office of the County Counsel  
1221 Oak Street, Suite 450  
Oakland, CA 94612

if to the City of San Leandro

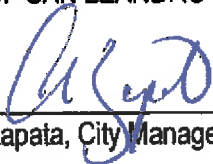
Office of the City Clerk  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577

Office of the City Manager/Administrator  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577  
Office of the City Attorney  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577

**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

CITY OF SAN LEANDRO




\_\_\_\_\_  
Chris Zapata, City Manager

Attest:



\_\_\_\_\_  
Tamika Greenwood, City Clerk

Approved as to Form:



\_\_\_\_\_  
Richard D. Pio Roda, City Attorney

224 West Winton Ave.  
Hayward, CA 94612

With a copy to:

Office of the County Counsel  
1221 Oak Street, Suite 450  
Oakland, CA 94612

if to The City of Union City [PARTY No. 12]

Office of the City Clerk

Anna M. Brown, City Clerk  
34009 Alvarado Niles Road  
Union City, CA 94587

**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By:  \_\_\_\_\_

Name: Mark Evanoff \_\_\_\_\_

Title: Deputy City Manager \_\_\_\_\_

Date: December 5, 2016 \_\_\_\_\_

Party: The City of Union City \_\_\_\_\_

East Bay Community Energy (EBCE)  
1999 Harrison Street, Suite 800  
Oakland CA 94612

if to Newark

Office of the City Clerk  
37101 Newark Boulevard  
Newark, CA 94560

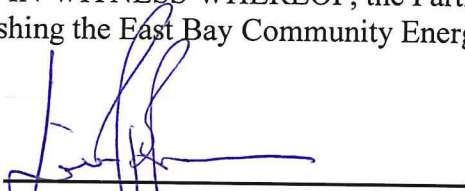
Office of the City Manager/Administrator  
37101 Newark Boulevard  
Newark, CA 94560

Office of the City Attorney  
37101 Newark Boulevard  
Newark, CA 94560

**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By:



Name: David J. Benoun

Title: City Manager

Date: November 18, 2019


Party: CITY OF NEWARK

**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

**CITY OF PLEASANTON, a municipal corporation**

Date: November 27, 2019

  
\_\_\_\_\_  
Nelson Fialho, City Manager

ATTEST:   
\_\_\_\_\_  
Karen Diaz, City Clerk


APPROVED AS TO FORM:

  
\_\_\_\_\_  
*for* Daniel G. Sodergren, City Attorney

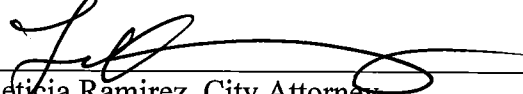


**ARTICLE 9**  
**SIGNATURE**

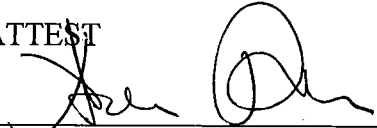
IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By:   
Name: Robert Rickman  
Title: Mayor  
Date: 11-7-19  
Party: City of Tracy

APPROVED AS TO FORM

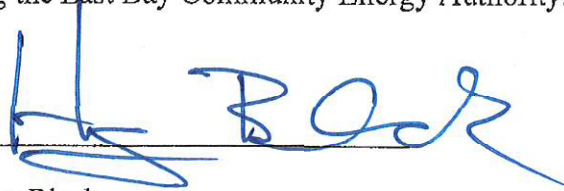
  
Leticia Ramirez, City Attorney

ATTEST

  
Adrienne Richardson, City Clerk

**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

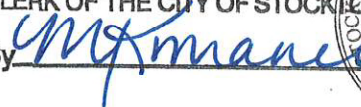
By: 

Name: Harry Black

Title: City Manager

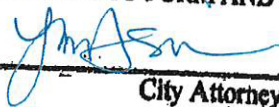
Date: 9/16/22

Party: City of Stockton

ATTEST:  
CLERK OF THE CITY OF STOCKTON  
By 



APPROVED AS TO FORM AND CONTENT

By   
City Attorney

if to: City of Lathrop

Office of the City Clerk  
390 Towne Centre Drive  
Lathrop, CA 95330

Office of the City Manager  
390 Towne Centre Drive  
Lathrop, CA 95330

Office of the City Attorney  
390 Towne Centre Drive  
Lathrop, CA 95330


With a copy to:

Department of Public Works  
390 Towne Centre Drive  
Lathrop, CA 95330


**ARTICLE 9  
SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.


**CITY OF LATHROP,**  
A California municipal corporation of the  
State of California

By:  7.21.23  
Stephen J. Salvatore Date  
City Manager

**ATTEST:**  
City Clerk of and for the City  
of Lathrop, State of California

By:  7/21/23  
Teresa Vargas Date  
City Clerk

**APPROVED AS TO FORM BY THE CITY OF LATHROP CITY ATTORNEY**

By:  7-18-2023  
Salvador Navarrete Date  
City Attorney

**EXHIBIT A**  
**LIST OF THE PARTIES**

This Exhibit A is effective as of September 20, 2023.

County of Alameda  
City of Albany  
City of Berkeley  
City of Dublin  
City of Emeryville  
City of Fremont  
City of Hayward  
City of Lathrop  
City of Livermore  
City of Newark  
City of Oakland  
City of Piedmont  
City of Pleasanton  
City of San Leandro  
City of Stockton  
City of Tracy  
City of Union City

**EXHIBIT B****ANNUAL ENERGY USE**

This Exhibit B is effective as of September 20, 2023.

<b>Party</b>	<b>kWh (2022*)</b>
Albany	50,016,072
Berkeley	350,111,874
Dublin	250,811,690
Emeryville	173,586,542
Fremont	1,182,339,971
Hayward	681,289,470
Lathrop	183,070,584
Livermore	428,724,628
Newark	244,335,398
Oakland	1,713,563,058
Piedmont	28,595,451
Pleasanton	394,860,960
San Leandro	414,939,109
Stockton	1,153,820,553
Tracy	412,411,899
Unincorporated County	452,054,476
Union City	261,439,720
<b>Total</b>	<b>8,375,971,455</b>

All data provided by PG&E

**EXHIBIT C**  
**VOTING SHARES**

This Exhibit C is effective as of September 20, 2023.

<b>Party</b>	<b>kWh (2022*)</b>	<b>Voting Shares Section 4.12.2</b>
Albany	50,016,072	0.6%
Berkeley	350,111,874	4.2%
Dublin	250,811,690	3.0%
Emeryville	173,586,542	2.1%
Fremont	1,182,339,971	14.1%
Hayward	681,289,470	8.1%
Lathrop	183,070,584	2.2%
Livermore	428,724,628	5.1%
Newark	244,335,398	2.9%
Oakland	1,713,563,058	20.5%
Piedmont	28,595,451	0.3%
Pleasanton	394,860,960	4.7%
San Leandro	414,939,109	5.0%
Stockton	1,153,820,553	13.8%
Tracy	412,411,899	4.9%
Unincorporated County	452,054,476	5.4%
Union City	261,439,720	3.1%
<b>Total</b>	<b>8,375,971,455</b>	<b>100%</b>

\*All data provided by PG&E

**EXHIBIT A**  
**LIST OF THE PARTIES**

This Exhibit A is effective as of July 17, 2024.

County of Alameda

County of San Joaquin

City of Albany

City of Berkeley

City of Dublin

City of Emeryville

City of Fremont

City of Hayward

City of Lathrop

City of Livermore

City of Newark

City of Oakland

City of Piedmont

City of Pleasanton

City of San Leandro

City of Stockton

City of Tracy

City of Union City



**EXHIBIT B**  
**ANNUAL ENERGY USE**

This Exhibit B is effective as of July 17, 2024

<b>Party</b>	<b>kWh (2023*)</b>
Albany	49,658,026
Berkeley	413,008,108
Dublin	252,876,615
Emeryville	182,316,485
Fremont	1,170,341,147
Hayward	708,882,734
Lathrop	200,965,565
Livermore	411,980,233
Newark	233,143,296
Oakland	1,768,534,324
Piedmont	29,015,530
Pleasanton	389,268,211
San Leandro	407,878,675
Stockton	1,199,280,141
Tracy	415,177,547
Union City	263,556,407
Unincorporated Alameda County	429,832,267
Unincorporated San Joaquin County	987,486,751
<hr/>	
Total	9,513,202,062

\*All data provided by PG&E

**EXHIBIT C**  
**VOTING SHARES**

This Exhibit C is effective as of July 17, 2024

<b>Party</b>	<b>kWh (2023*)</b>	<b>Voting Shares Section 4.12.2</b>
Albany	49,658,026	0.5%
Berkeley	413,008,108	4.3%
Dublin	252,876,615	2.7%
Emeryville	182,316,485	1.9%
Fremont	1,170,341,147	12.3%
Hayward	708,882,734	7.5%
Lathrop	200,965,565	2.1%
Livermore	411,980,233	4.3%
Newark	233,143,296	2.5%
Oakland	1,768,534,324	18.6%
Piedmont	29,015,530	0.3%
Pleasanton	389,268,211	4.1%
San Leandro	407,878,675	4.3%
Stockton	1,199,280,141	12.6%
Tracy	415,177,547	4.4%
Union City	263,556,407	2.8%
Unincorporated Alameda County	429,832,267	4.5%
Unincorporated San Joaquin County	987,486,751	10.4%
<hr/>		
Total	9,513,202,062	100.0%

\*All data provided by PG&E

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN  
STATE OF CALIFORNIA

RESOLUTION

R-24-68

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN  
JOAQUIN TO IMPLEMENT A COMMUNITY CHOICE AGGREGATION PROGRAM IN  
THE COUNTY OF SAN JOAQUIN AND JOIN A JOINT POWERS AGREEMENT WITH  
AVA COMMUNITY ENERGY AUTHORITY

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WHEREAS, the County of San Joaquin has an interest in achieving greater local involvement over the provision of electricity supply services, competitive electric rates, local control and investment, and environmental sustainability; and

WHEREAS, Assembly Bill 117 codified as Public Utilities Code Section 366. 2 the Act"), authorizes any California city or county whose governing body so elects, to combine the electricity load of its residents and businesses in a community- wide electricity aggregation program known as Community Choice Aggregation (CCA); and

WHEREAS, The Act allows a CCA program to be carried out under a joint powers agreement entered into by entities that each have capacity to implement a CCA program individually. The joint powers agreement structure reduces the risks of implementing a CCA program by immunizing the financial assets of participants; and

WHEREAS, on September 26, 2023 the Board of Supervisors received a presentation from Ava Community Energy Authority (Ava), formerly known as East Bay Community Energy, regarding the benefits of implementing a CCA program; and

WHEREAS, on April 9, 2023 the Board of Supervisors adopted County Ordinance Title 6, Division 5, Chapter 1 –Authorizing the Implementation of a Community Choice Aggregation Program in San Joaquin County; and

WHEREAS, implementing a CCA program will likely provide multiple benefits to the residents, including lower electrical rates, local control and investment, environmental sustainability; and

WHEREAS, San Joaquin County and cities in San Joaquin County have developed the Ava Community Energy Authority Joint Powers Agreement (JPA) which creates the Ava Community Energy Authority (Authority) which will govern and operate the CCA program; and

WHEREAS, the Authority provides alternate electric services to consumers under a JPA with San Joaquin County and some cities in that county; and

WHEREAS, The Authority is interested in providing potential services to the County of San Joaquin; and

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of San Joaquin does hereby approve this Resolution implementing a Community Choice

Aggregation Program in the County of San Joaquin by joining the Joint Powers Agreement with Ava Community Energy Authority with an effective date of May 9, 2024.

PASSED AND ADOPTED April 9, 2024, by the following vote of the Board of Supervisors, to wit:

AYES: **Canepa, Patti, Ding, Rickman, Villapudua**

NOES: **None**

ABSENT: **None**

ABSTAIN: **None**

**Miguel A. Villapudua**

---

MIGUEL A. VILLAPUDUA  
Chairman, Board of Supervisors  
County of San Joaquin  
State of California

ATTEST: RACHÉL DeBORD  
Clerk of the Board of Supervisors  
County of San Joaquin  
State of California



By **Rachél DeBord**

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN,  
STATE OF CALIFORNIA

ORDINANCE NO. 4642

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF  
SAN JOAQUIN TO IMPLEMENT A COMMUNITY CHOICE AGGREGATION  
PROGRAM TO PROVIDE ELECTRIC SERVICES IN THE COUNTY OF SAN  
JOAQUIN**

The Board of Supervisors of the County of San Joaquin ordains as follows:

**WHEREAS**, The County of San Joaquin has an interest in achieving greater local involvement over the provision of electricity supply services, competitive electric rates, local control and investment, and environmental sustainability; and

**WHEREAS**, Assembly Bill 117 codified as Public Utilities Code Section 366.2 (the "Act"), authorizes any California city or county whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation (CCA); and

**WHEREAS**, The Act allows a CCA program to be carried out under a joint powers agreement entered into by entities that each have capacity to implement a CCA program individually. The joint powers agreement structure reduces the risks of implementing a CCA program by immunizing the financial assets of participants; and

**WHEREAS**, implementing a CCA program will likely provide multiple benefits to the residents, including lower electrical rates, local control and investment, and environmental sustainability; and

**WHEREAS**, concurrent with the introduction of this ordinance, the Board of Supervisors considered a resolution approving the Ava Community Energy Authority Joint Powers Agreement; and

**WHEREAS**, proper notice of this public hearing was given to all respects as required by law; and

**WHEREAS**, the Board of Supervisors has reviewed all written evidence and oral testimony presented to date.

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY  
OF SAN JOAQUIN DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1 Findings.**

Based upon the findings set forth hereinabove, the Board of Supervisors elects to

participate in, and approves the implementation of a Community Choice Aggregation program within the County of San Joaquin's jurisdiction by and through the Ava Community Energy Authority.

This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the County or any officer or employee thereof a mandatory duty of care toward persons and property within or without the County so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

**Section 2 Environmental.**

The passage of this ordinance is not a project under the California Environmental Quality Act (CEQA) because it does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Sections 15378, therefore, not subject to CEQA pursuant to CEQA Guidelines Section 15060.

**Section 3. Severability**

If any provisions of this Ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not *effect* other provisions or applications of the ordinance which can be given *effect* without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Board of Supervisors hereby declares that it would have adopted this Ordinance irrespective of the validity of any particular portions thereof.

**Section 4. Effective Date**

This Ordinance shall take legal *effect* and be in force thirty (30) days from and after the date of its passage.

**Section 5. Publication**

Within fifteen (15) days after its final passage, the County Clerk shall cause a copy of this Ordinance to be published in full accordance with Section 36933 of the Government Code.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of San Joaquin, State of California, on this 9<sup>th</sup> of April 2024 to wit:

AYES: **Canepa, Patti, Ding, Rickman, Villapudua**

NOES: **None**

ABSENT: **None**

ABSTAIN: **None**

**Miguel A. Villapudua**

---

MIGUEL A. VILLAPUDUA  
Chairman, Board of Supervisors  
County of San Joaquin  
State of California

ATTEST: RACHÉL DeBORD  
Clerk of the Board of Supervisors  
County of San Joaquin  
State of California



By: **Rachél DeBord**

**ARTICLE 9**  
**SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Ava Community Energy Authority.

By: 


Name: Miguel A. Villapudva

Title: Chairman

Date: 6/26/2024

Party: County of San Joaquin

Approved as to Form  
EDWARD KIERNAN  
County Counsel

By   
Deputy County Counsel



# Inclusion of New Communities: San Joaquin County (unincorporated)



# Background

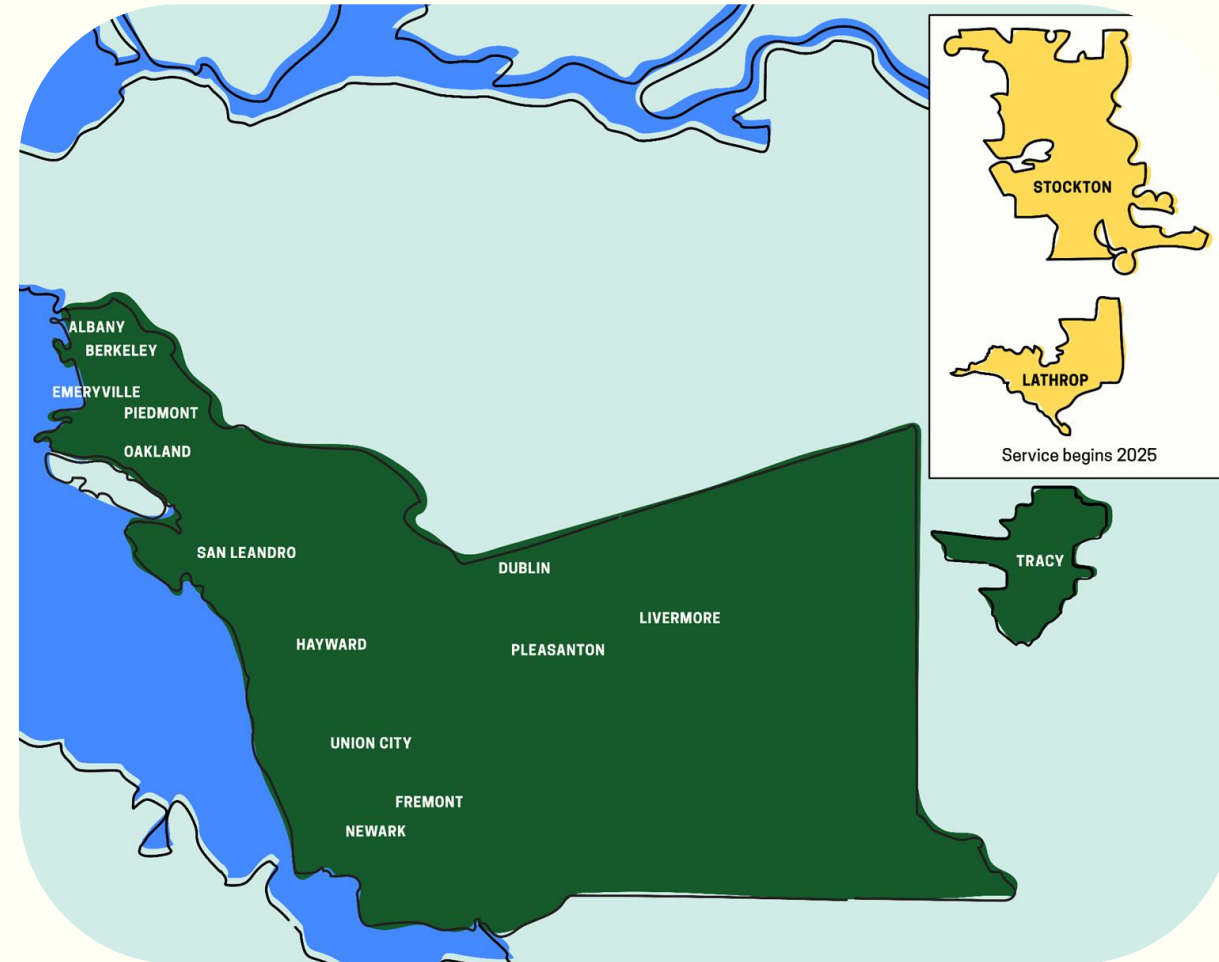
1. Ava Joint Powers Agreement (JPA) Sec. 3.1 ("Addition of Parties")
2. Previously invoked to include the following JPA members:
  - Cities of Newark, Pleasanton, and Tracy (2019)
  - City of Stockton (2022)
  - City of Lathrop (2023)
3. CPUC Reso E-4907: Requires one-year wait between JPA membership/CPUC Implementation Plan submission and start of Ava service to new JPA member-jurisdiction
  - Board approval re JPA membership during CY 2024 = Start of service CY 2026
4. In 2023, CPUC's new Resource Adequacy (RA) requirements delayed Stockton's start of service until 2025
5. Lathrop & Stockton: Ava service scheduled to begin April 2025
6. San Joaquin County (unincorporated): If approved CY 2024, service could begin CY 2026
  - Enrollment could be phased by sector/customer category:
    - E.g., three phases: Q 1/Jan: Muni/Com ----> Q2/April: Res ----> Q4/Oct: Agr (or Q1 '27)



# Ava Member Jurisdictions

Ava's current Joint Powers Authority (JPA) and service area include: Alameda County, all AC cities (except the City of Alameda), and the City of Tracy in San Joaquin County (SJC).

In 2019, Tracy became the first SJC jurisdiction to join Ava's JPA. The SJC cities of Stockton and Lathrop joined the JPA in 2022 and 2023, respectively. These latter two SJC cities are scheduled to begin service with Ava in 2025.

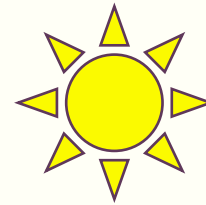


# San Joaquin County: Key Ava JPA Membership Milestones

- 1. July 28, 2022:** Ava staff invited by SJC Sup. Rickman (former Mayor of Tracy) to meet with County Administrator & staff;
  - PG&E load data forms requested by Ava
- 2. Sept. 26, 2023:** Ava staff invited to present to SJC Board of Supervisors (BOS). Unanimous vote to proceed with Ava membership & approve PG&E load data request for Ava's analysis;
- 3. October 12, 2023:** County's PG&E Load Data Request forms fully executed by SJC & PG&E
- 4. March 12, 2024:** BOS unanimously passes first reading of CCA/Ava ordinance
- 5. March 21, 2024:** PG&E provides SJC load data for Ava's analysis (w/errors & missing info)
- 6. April 9, 2024:** BOS unanimously passes CCA ordinance and Resolution to join Ava
- 7. June 27, 2024:** SJC's executed JPA signature page sent to Ava



# Timeline: San Joaquin County's Ava Membership & Service



\*Pending Board approval, SJC's 2026 start of service would be scheduled following additional staff analyses to optimize cost, customer experience, and power resource procurement.

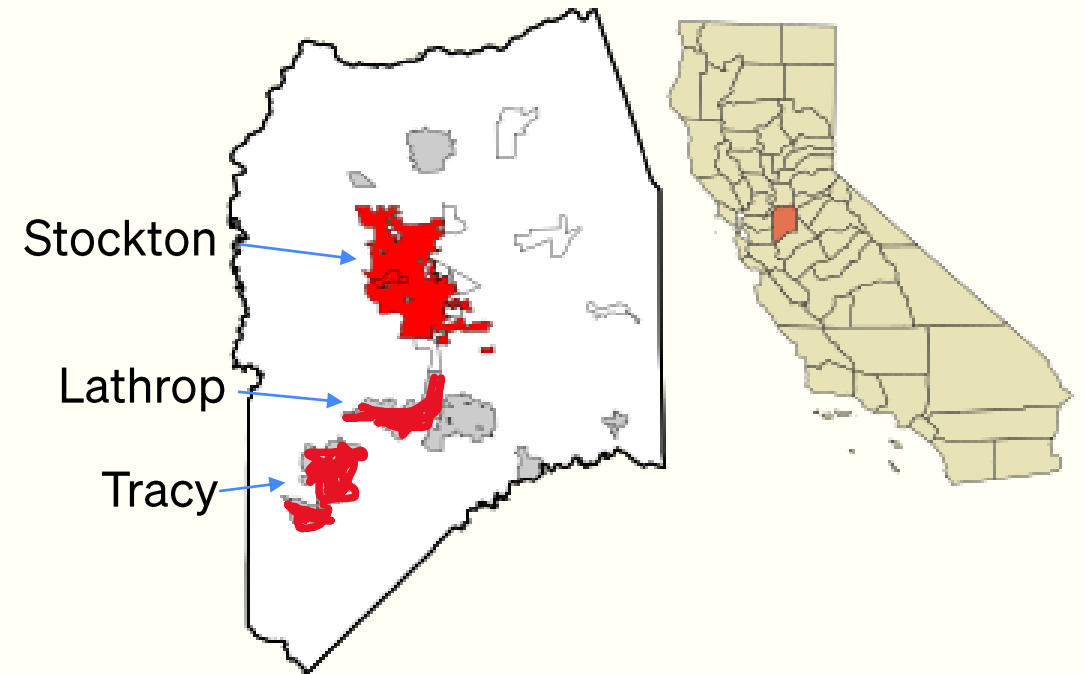
Customer enrollments could occur during a single month/year; or they could be phased by sector.

- E.g., three phases: Q1/Jan: Muni/Com ---> Q2/April: Res ---> Q4/Oct: Agr (or Q1 '27)



# San Joaquin County: Background

- **Features:** Highly agricultural economy; demographic diversity; major transportation corridors (highways and rail lines); Port of Stockton; rich culture/history
- **Pop:** ~800,000 (cities + unincorporated areas) in 2023
  - Unincorporated pop: ~200,000 (smaller than Fremont; larger than Hayward)
  - Growing population & development of new homes (especially Lathrop)
- **Incorporated cities:** Escalon, **Lathrop**, Lodi, Manteca, Ripon, **Stockton**, **Tracy**...Mountain House (tbd)
- **Notes:**
  - County Seat: Stockton
  - Mountain House in process of incorporating
  - [Valley Link](#) (hydrogen-powered train connecting AC & SJC—under construction 2025-2027)
  - Altamont = major commuter corridor of AC & SJC



# Qualitative Considerations: SJC re Ava's Mission & Strategy

## 1. Mission: Ava service to SJC accelerates progress toward JPA's express purpose

- Expand access to competitively-priced renewable energy
- Reduce greenhouse gas (GHG) emissions
- Provide lower rates than PG&E
- Catalyze local development & innovative programs
- Advance environmental justice

## 2. Strategy: Ava service to SJC creates strategic opportunities for the agency

- Economies of scale re long-term power procurement and retail rate savings
- Broader policy/political network re State/Federal legislative & regulatory issues
- Sector-specific programs & project development
  - e.g. AgFIT; Valley Link fuel cell (green hydrogen) train
- Transportation corridors for EV charging network
  - I 5; I 205; I 580; Hwy 4; Hwy 12; Hwy 26; Hwy 88; Hwy 99; Hwy 120
- Expanded stakeholder engagement in historically marginalized communities



# Unincorporated SJC : Membership Analysis Summary

## Notable Features of unincorporated SJC

- Similar in size to Stockton (load) and Hayward (number of accounts);
- Compared to unincorporated Alameda Co, SJC has ~12% more accounts—and ~2.5 times the load;
- Higher percentage of Agricultural (Agr) load
  - Agr represents nearly ~28% of load (but only 13% of accounts)
- Would nearly *triple* Ava's Agr load (from ~1.5% to 4.4%)
- Residential load is ~30% & Commercial (non-Agr) load is nearly 40%
- High solar adoption = potential for negative usage during certain hours of the day/year

## Parameters of Analysis

- Based on current Ava overhead costs and 10-year average energy market values/forecasts;
- Assumes 7% account opt out rate (slightly above Ava's current service area-wide opt out rate)
- Applies Ava's 2025 rates from 2024-25 budget development
- Data excludes ineligible loads (e.g., Irrigation Districts and Direct Access customers);
- Applies 2023 PG&E load data for County customers (the most recent available)





# Summary Data

	Customer Count	Annual Load (GWh)	Peak Load (Wholesale MW)	Peak Date & Time (Hour Starting)
Existing Ava	642,529	6,512	1233	2023-08-23 18:00
Stockton & Lathrop	118,089	1,221	391	2023-08-15 18:00
SJC Unincorporated	58,003	1,006	275	2023-08-15 18:00
Combined	818,621	8,739	1875	2023-08-15 18:00

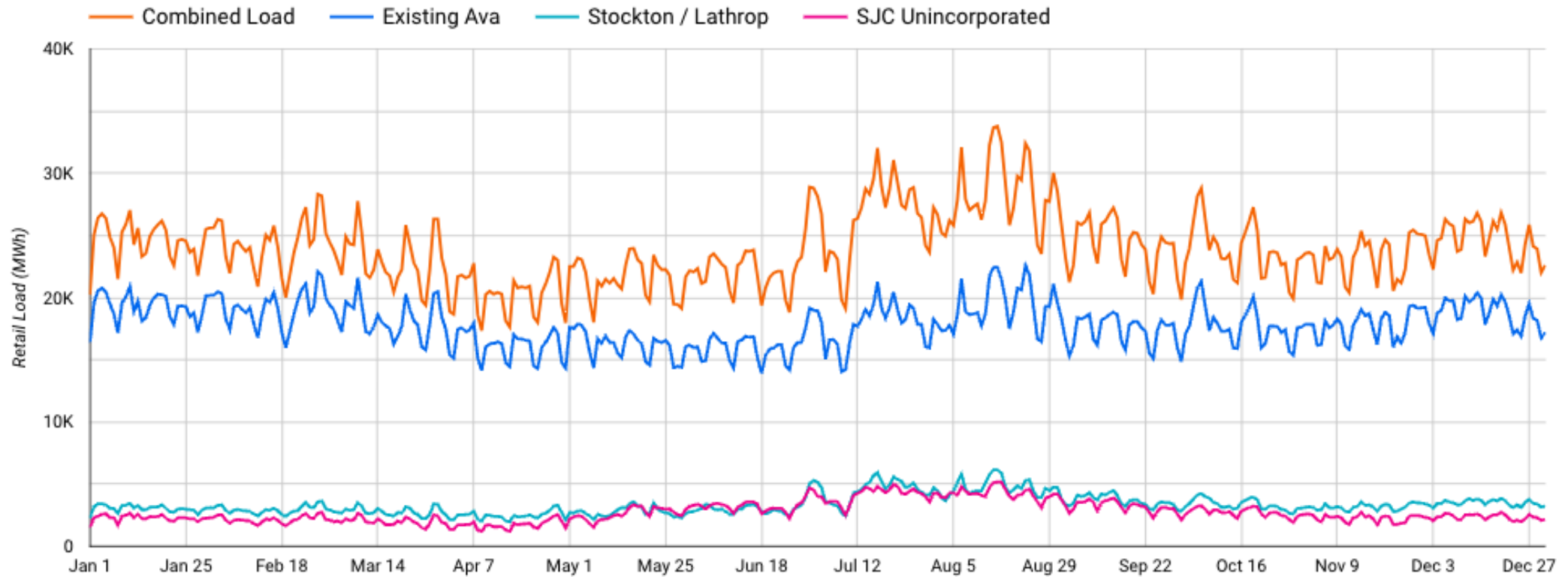
## Historical Load in 2023 (MWh)

Rate Class	Existing Ava		Stockton & Lathrop		SJC Unincorporated		Combined Load	
	2023 MWh	%	2023 MWh	%	2023 MWh	%	2023 MWh	%
A1	908,883	13.96%	139,081	11.39%	77,985	7.75%	1,125,949	12.88%
A10	946,153	14.53%	156,089	12.78%	68,099	6.77%	1,170,341	13.39%
AGR	96,789	1.49%	2,324	0.19%	282,028	28.04%	381,141	4.36%
E19	1,331,972	20.46%	241,138	19.74%	101,640	10.10%	1,674,750	19.16%
E20	597,945	9.18%	145,526	11.91%	153,006	15.21%	896,477	10.26%
RES	2,519,344	38.69%	519,306	42.51%	320,789	31.89%	3,359,439	38.44%
LS	40,771	0.63%	8,511	0.70%	237	0.02%	49,519	0.57%
TC	7,074	0.11%	1,015	0.08%	557	0.06%	8,645	0.10%
BEV	62,724	0.96%	8,478	0.69%	1,504	0.15%	72,706	0.83%
Total	6,511,655	100.00%	1,221,468	100.00%	1,005,844	100.00%	8,738,967	100.00%

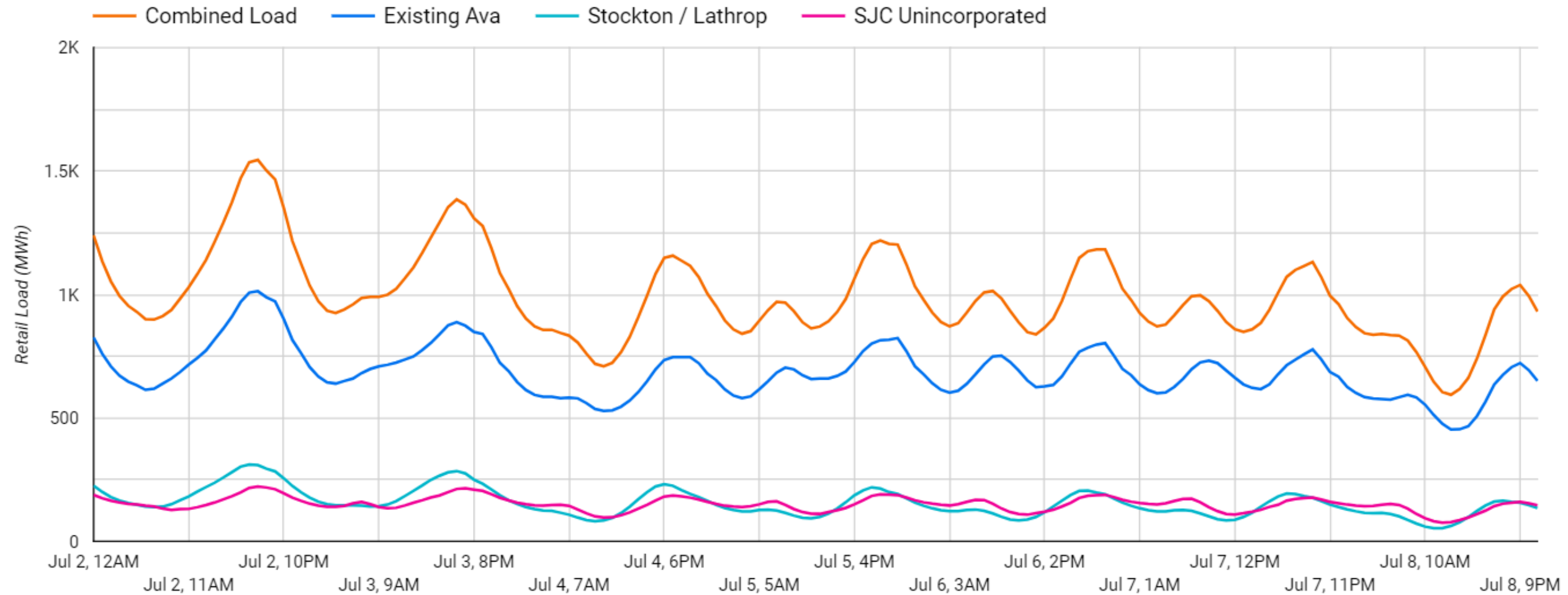


# 2023 Daily Load

2023 Historical Retail Load Comparison



# Summer Hourly Load Shape



# Quantitative Analysis: Base-Case

- Financial Base-Case scenario is based upon expected forward looking estimates for revenues and power resource/energy costs ("PR" = Power Resource)
- The table provides Base-Case assumptions and results for 2026; and are based on estimates as of July 2024
- Data reflects service to SJC for full CY 2026. Exact enrollment timing may be adjusted to optimize cost impacts

	A	B	C	D	(B+D)	(B+C)
	SJC (applying Ava's historical average PR costs)	SJC 2026 (high PR costs)	SJC 2026 (low PR costs)	Ava 2026 (w/out SJC)	Ava w/SJC 2026 (high PR costs)	Ava w/SJC 2026 (low PR costs)
Accounts	58,003	58,003	58,003	760,618	818,621	818,621
Annual Load (GWh/yr)	1,030	1,030	1,030	8,034	9,064	9,064
Peak Load (MW)	314	314	314	1,859	2,173	2,173
Net Position %	+7.95%	-23.4%	-4.6%	+4.6%	+1.9%	+4.1%
Net Position \$	\$10.3M	-\$30.3M	-\$5.7M	\$51.0M	\$20.7M	\$45.3M



# Staff Recommendation

1. **Extend JPA membership to unincorporated San Joaquin County; and**
2. **Authorize staff to update Ava's Implementation Plan (IP) to reflect SJC's membership & resubmit IP to the CPUC by end of 2024.**
  - Expected service in CY 2026, based on CPUC certification by EOY 2024
  - Consider phasing SJC enrollment through 2026 by customer sector
    - Additional analysis needed to optimize phasing

**Timing:** Bring to BOD for vote @ **July 17, 2024**, meeting

- To allow time for staff to submit updated Implementation Plan for CPUC certification by **Sept 30, 2024**.
  - CPUC has 90 days to certify Ava's updated plan
- December CPUC certification needed to make the 2026 Resource Adequacy (RA) filing including new County load;
- Back up timeline: Sept 18, 2024, BOD meeting (requires preemptive draft of updated IP)



# Thank you!



Online

[AvaEnergy.org](https://AvaEnergy.org)

Phone

+1 833.699.3223

Email

[customer-support@AvaEnergy.org](mailto:customer-support@AvaEnergy.org)

Social

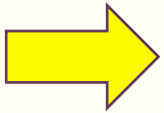
[PoweredWithAva](#)

# Additional slides



# Process of Joining Ava

1. Initial meetings with City/County staff & elected officials
  - PG&E load data request forms
2. Presentations to City Council/BOS;
  - Discussion item --> PG&E load data request forms
  - Vote #1 - CCA Ordinance & Resolution to join Ava
  - Vote #2 - Second CCA Ordinance vote (*best completed by June to make Sept 30 RA deadline*)
3. Ava staff conducts quantitative membership analysis
4. **Ava Board/committees review analysis and Board considers including new community**
5. Pending Board approval, Ava updates JPA and files updated Implementation Plan with the CPUC before 9/30 for preferable RA compliance
6. Next CY: Initial community outreach in new community (e.g., meetings w/CBOs, Chambers, et al)
7. CY+1: Ava enrolls customers in new community, typically April (could be phased)





# 2023 Hourly Load

2023 Historical Retail Load Comparison

