

Agreement to Share Cost of Community Choice Aggregation Technical Feasibility Study

This Cost Share Agreement (AGREEMENT) is entered into by the City of Chula Vista, the City of La Mesa and the City of Santee (collectively, PARTIES, and individually, PARTY), to establish the responsibilities of each PARTY with respect to the preparation of a Community Choice Aggregation Technical Feasibility Study.

RECITALS

1. WHEREAS, in 2002, the California State Legislature passed Assembly Bill 117, enabling Community Choice Aggregation (CCA); and
2. WHEREAS, Community Choice Aggregation enables various entities to serve as 'community choice aggregators' to combine electrical loads of multiple end-use customers and provide power supply services, including facilitating the sale and purchase of electrical energy, transmission, and other services on behalf of the end-use customers; and
3. WHEREAS, State law authorizes any city, or group of cities operating as a joint powers agency, to serve as a community choice aggregator to combine the loads of its residents, businesses, and municipal facilities to reduce transaction costs to consumers, provide consumer protections, and leverage the negotiation of contracts; and
4. WHEREAS, prior to furnishing electricity to consumers, a community choice aggregator is required to file a CCA implementation plan detailing the process and outcomes of aggregation for adoption by the California Public Utilities Commission; and
5. WHEREAS, an adopted CCA implementation plan is required to address: a. the organizational structure of the CCA program, its operations, and its funding, b. rate setting and other costs to participants, c. provisions for disclosure and due process in setting rates and allocating costs among participants, d. the methods for entering and terminating agreements with other entities, e. the rights and responsibilities of program participants, including, but not limited to, consumer protection procedures, credit issues, and shutoff procedures, f. termination of the program, and g. a description of the third parties that will be supplying electricity under the program, including, but not limited to, information about financial, technical, and operational capabilities; and
6. WHEREAS, a CCA Technical Feasibility Study would evaluate the environmental, financial, economic, and technical implications and overall viability of establishing a CCA program among the PARTIES; and

Agreement to Share Cost of Community Choice Aggregation Technical Feasibility Study

7. WHEREAS, a CCA Technical Feasibility Study would provide the PARTIES with a basis upon which to determine whether further investment might be warranted to develop a CCE implementation plan; and
8. WHEREAS, the City of Chula Vista, the City of La Mesa and the City of Santee have each expressed interest in studying the feasibility of establishing CCA through Council resolution or by some other policy directive; and
9. WHEREAS, the City of Chula Vista has agreed to provide project management and contract administration services on behalf of the PARTIES and to engage a consultant to prepare a joint CCA Technical Feasibility Study; and
10. WHEREAS, the PARTIES have agreed to share the costs of a joint CCA Technical Feasibility Study; and
11. WHEREAS, the PARTIES have agreed that the costs of the CCA Technical Feasibility Study will be based upon a scope of work to be finalized and unanimously agreed upon by the PARTIES, in general accordance with the tasks outlined in Exhibit A to this AGREEMENT and incorporated herein by this reference.

AGREEMENT

NOW, THEREFORE, the PARTIES mutually agree as follows:

- I. **PURPOSE:** The purpose of this AGREEMENT is to identify the PARTIES' individual and collective responsibilities and cost-sharing obligations with respect to the preparation of a joint CCA Technical Feasibility Study.
- II. **TERM:** The term of this AGREEMENT shall commence once the AGREEMENT is fully executed by all PARTIES and shall end upon completion of the CCA Technical Feasibility Study.
- III. **PARTY RESPONSIBILITIES AND PARTICIPATION:**
 - A. **RESPONSIBILITIES OF PARTY LEAD:** The City of Chula Vista is hereby designated as PARTY Lead. The City of Chula Vista will be responsible for overall project management, administration of consultant contracts, ensuring the quality and timeliness of consultant work products, and coordinating and facilitating cooperation among the PARTIES and the consultant.

Agreement to Share Cost of Community Choice Aggregation Technical Feasibility Study

B. RESPONSIBILITIES OF ALL PARTIES: PARTIES agree to participate in studying the feasibility of CCA, including the process of preparing a CCA Technical Feasibility Study and agree to assign one (1) person to serve as its representative to participate in meetings (at least 80% of all meetings), participate in a consultant selection panel (as deemed appropriate by all PARTIES), and collaborate on developing strategies, making decisions, and reviewing work products and submittals. Each PARTY agrees to be responsive in this effort and, while recognizing that all parties may have different interests, the PARTIES agree to aim for consensus on decisions whenever possible.

The PARTIES shall have full access to, and opportunity to provide comments on, all consultant work product, including working documents. All PARTIES shall have co-ownership of all consultant work products.

IV. FUNDING:

A. Each PARTY shall pay its share of expenses within sixty (60) days of receipt of an invoice from the PARTY Lead. The PARTY Lead shall send invoices to the City of La Mesa and City of Santee on a quarterly basis based on a proportional distribution of costs over the Fiscal Year. Funds collected and not expended at termination of the AGREEMENT shall be refunded or credited to the PARTY that contributed the funds.

B. The total cost incurred by each PARTY shall not exceed those shown in Table 1 without the prior written approval of each PARTY and amendment of this AGREEMENT by all PARTIES.

C. The total cost to prepare the CCA Technical Feasibility Study, excluding the cost associated with requesting the data from SDG&E, shall not exceed \$89,340. That total cost will be divided among the PARTIES as shown in Table 1 below. The not-to-exceed costs allocated in Table 1 are based on each PARTY paying 20% of the Study Cost plus a per capita allotment.

Table 1. Cost Share Budget

City	Total Population	Proportional Population	Proportional Pop. Cost	Fixed Cost (20%)	Total Study Cost
Chula Vista	267,172	0.69	\$24,784.11	\$17,868	\$43,082.43
La Mesa	59,948	0.16	\$5,561.05	\$17,868	\$22,998.73

Agreement to Share Cost of Community Choice Aggregation Technical Feasibility Study

Santee	58,113	0.15	\$5,390.83	\$17,868	\$23,258.83
Total	385,233	1.00	\$35,736	\$53,604	\$89,340

- V. AMENDMENTS TO THE AGREEMENT:** This AGREEMENT may be amended upon unanimous consent of the PARTIES. No amendment shall be effective unless agreed to in writing by all PARTIES.
- VI. GOVERNING LAW:** This AGREEMENT shall be governed and construed in accordance with the laws of the State of California. If any provision or provisions shall be held to be invalid, illegal or unenforceable, it shall not in any way affect the validity, legality, and enforceability of the remaining provisions. In addition, each PARTY agrees to comply with all federal, state and local laws and ordinances applicable to the work to be performed under the terms of this AGREEMENT.
- VII. WAIVER AND CONSENT:** No term or provision hereof shall be deemed waived and no breach of any term or provision hereof shall be deemed consented to, unless such waiver or consent shall be in writing and signed by the PARTY alleged to have so waived or consented. No waiver by any PARTY of any term or provision hereof, whether express or implied, shall constitute a waiver by that PARTY of any other term or provision hereof. No consent by any PARTY to a breach of any term or provision hereof, whether express or implied, shall constitute a consent by that PARTY to a breach of any other different or subsequent breach of any term or provision hereof.
- VIII. DISPUTES:** The PARTIES agree to mediate any dispute prior to filing suit or prosecuting suit against the other parties. In the event suit is brought upon this AGREEMENT to enforce its terms, each PARTY shall be responsible for its own attorneys' fees and costs.
- IX. APPLICATION OF PRIOR AGREEMENTS:** This AGREEMENT constitutes the entire Agreement between the PARTIES with respect to the subject matter; all prior agreements, representations, statements, negotiations, and undertakings are superseded hereby.
- X. TERMINATION:** Any PARTY may terminate this AGREEMENT by giving written notice to the other PARTIES no less than 30 days prior to the effective date of termination. Termination of this AGREEMENT does not release any PARTY from its financial

Agreement to Share Cost of Community Choice Aggregation Technical Feasibility Study

responsibilities as outlined in Section IV of this AGREEMENT. Upon termination, the terminating PARTY shall pay its cost share in full.

- XI. ADVICE OF COUNSEL:** Each PARTY acknowledges it has consulted with and been advised by its respective attorneys concerning the terms of this AGREEMENT, or that it knowingly declined to consult with or seek the advice of an attorney, and that it has executed this AGREEMENT after independent investigation.
- XII. JOINT DRAFT:** Each PARTY has had the opportunity to participate in the drafting and preparation of this AGREEMENT. Any construction to be made of this AGREEMENT or any of its terms or provisions shall not be construed against any one PARTY.
- XIII. WARRANTY OF AUTHORITY TO EXECUTE AGREEMENT:** Each person executing this AGREEMENT on behalf of any PARTY hereto hereby warrants that he or she has authority to so execute this AGREEMENT in that capacity, that no other approval or consent other than that of the person executing this AGREEMENT is necessary for the due and legal execution of this AGREEMENT and that the PARTY on whose behalf the AGREEMENT is signed, including that PARTY's agents, officers and employees, is legally bound thereby as of the date the AGREEMENT is executed.
- XIV. COUNTERPARTS:** This AGREEMENT may be executed in counterparts, with the same force and effect as if executed in a single, complete document. For purposes of this AGREEMENT, a facsimile or Portable Document Format ("PDF") execution shall be considered as the equivalent of a wet ink signature, shall be deemed good and valid acceptance of this AGREEMENT, and shall be reasonably relied upon by all PARTIES.

**Agreement to Share Cost of
Community Choice Aggregation Technical Feasibility Study**

IN WITNESS THEREOF, this AGREEMENT is executed as follows:

For the City of Chula Vista

BY: _____
MARY CASILLAS SALAS
MAYOR

ATTEST

BY: _____
Kerry K. Bigelow, MMC
City Clerk

APPROVED AS TO FORM

BY: _____
Glen R. Googins
City Attorney

**Agreement to Share Cost of
Community Choice Aggregation Technical Feasibility Study**

IN WITNESS THEREOF, this AGREEMENT is executed as follows:

For the City of La Mesa

Signature

Date

Title

DRAFT

**Agreement to Share Cost of
Community Choice Aggregation Technical Feasibility Study**

IN WITNESS THEREOF, this AGREEMENT is executed as follows:

For the City of Santee

Signature

Date

Title

DRAFT

Agreement to Share Cost of Community Choice Aggregation Technical Feasibility Study

EXHIBIT A: Draft Scope of Work

The specific deliverables provided under this Agreement include the following:

- a) Bi-weekly updates with assigned project staff;
- b) Coordination with Partners to finalize load data request to SDG&E;
- c) Finalize study scope, assumptions, and power supply scenarios;
- d) Summary of communications with and vetting of study assumptions and findings by SDG&E and/or Sempra Services Corporation;
- e) Draft Technical Study in Microsoft Word format, plus additional drafts as necessary;
- f) Draft pro-forma model in Microsoft Excel format, plus additional drafts as necessary;
- g) Responses to any reasonable third-party reviewer as directed by the Partners;
- h) Final Technical Study and all relevant final documents and models;
- i) Presentation of study findings and results to all Partner staff, Councils, advisory boards, and/or public meetings (up to six presentations);
- j) Outreach to the public to support the study including assistance in preparing web content, fliers, social media blasts and press releases for each of the six public meetings.