



# CITY COUNCIL AGENDA STATEMENT



September 10, 2019

File ID: 19-0413

## TITLE

- A. ORDINANCE OF THE CITY OF CHULA VISTA ESTABLISHING COMMUNITY CHOICE AGGREGATION IN THE CITY OF CHULA VISTA (FIRST READING)
  
- B. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING AND AUTHORIZING THE EXECUTION OF THE JOINT EXERCISE OF POWERS AGREEMENT CREATING THE SAN DIEGO REGIONAL COMMUNITY CHOICE ENERGY AUTHORITY

## RECOMMENDED ACTION

Council place the ordinance on first reading and adopt the resolution.

## SUMMARY

As identified in the 2017 Climate Action Plan staff have conducted a Community Choice Aggregation (CCA) feasibility study that was accepted by the City Council at the July 23, 2019 City Council meeting. That study found that a CCA program in Chula Vista is economically viable and would provide various community benefits. On August 13<sup>th</sup> City Staff returned to City Council with information on requested CCA governance options and was directed to pursue the Regional CCA JPA option, formally called the San Diego Regional Community Choice Energy Authority (SDRCCEA). To join the Regional JPA City Council will need to approve the attached CCA ordinance and JPA agreement before October 1<sup>st</sup>. The other partners in the JPA are The Cities of San Diego, La Mesa, Encinitas, and Imperial Beach. The JPA Agreement is aligned with the City's Climate Action Plan goal of achieving 100% clean energy by 2035 and will help increase local control of energy resources in our community. Later in the year the CCA board will meet and vote to approve CCA formation documents, including an Implementation Plan that will be filed with the California Public Utilities Commission (CPUC).

## ENVIRONMENTAL REVIEW

The proposed activity has been reviewed for compliance with the California Environmental Quality Act (CEQA) and it has been determined that the activity is not a "Project" as defined under Section 15378 of the state CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Notwithstanding the foregoing, it has also been determined that the activity

qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines. Thus, no environmental review is required.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

The Sustainability Commission CCA Subcommittee supports City Council implementation of the Regional JPA.

## **DISCUSSION**

### Background

As part of the 2017 Climate Action Plan, the City of Chula Vista identified several actions that should be taken to provide more grid-delivered clean energy to help reach the City's goal of offering our community 100% clean, renewable energy by 2035. One of the implementation actions with the largest potential to increase clean energy on the grid and reduce greenhouse gas emissions was conducting a feasibility study to identify costs and benefits of pursuing a CCA program for Chula Vista. In October of 2018, a Request for Proposal (RFP) was issued seeking a consultant to conduct a CCA feasibility report. In December, staff selected EES Consulting, Inc. (EES) and the contract was approved by City Council in February 2019. Two CCA community workshops were held in Chula Vista in May 2019 to inform interested residents on the basics of CCAs and what issues would be covered in the feasibility study. City Council unanimously accepted the CCA Feasibility Report on July 23, 2019 and directed staff to return on August 13<sup>th</sup> to further discuss the potential of either partnering with the City of San Diego through the "Regional JPA" governance option or creating an enterprise CCA and partnering with other enterprise CCAs through the "Enterprise JPA" governance option. City Council directed staff to pursue the Regional JPA approach.

### CCA and JPA Formation

In early 2019 as the CCA Feasibility Study was underway, staff from the City of San Diego reached out to jurisdictions that had expressed interest in pursuing CCA. The City of San Diego hosted regular meetings with executive level staff from the County and several cities that resulted in the development of a JPA term sheet and a subsequent JPA Agreement negotiated over several months with input from the various municipalities and several local stakeholder groups.

The final version of the JPA Agreement is attached to this report and will be also considered by the City of La Mesa on September 10, the City of Encinitas on September 11, the City of Imperial Beach on September 17<sup>th</sup> and the City of San Diego's Environment Committee on September 12. City of San Diego staff have also developed a detailed timeline/workplan showing the pathway to a 2021 launch and contracted for CCA finance and implementation support.

## Pursuit of a Regional JPA

Per California law, in order for a JPA to be formed, at least 2 municipalities must agree to become members. Although the City of San Diego could have pursued a CCA on its own, the Mayor and City Council established its preference for a regional JPA governance model, primarily due to financial and legal separations that protect a JPA member's general fund as well as the opportunity to work cooperatively with other jurisdictions throughout the San Diego region. Additional reasons to pursue a regional JPA include:

- (a) Market benefits resulting from economies of scale;
- (b) Ability to quickly repay start up debt, fund reserves and roll-out regional customer programs;
- (c) Organizational efficiencies that avoid regional redundancy, confer cost benefits and support regional economic development goals;
- (d) Ability to achieve regionwide carbon reduction and renewable power goals faster;
- (e) Consistency for San Diego region ratepayers which builds confidence and reduces customer confusion; and
- (f) A unified voice through which to exercise influence with State regulatory and legislative bodies.

## Key Elements of the JPA Agreement

As noted, City staff have been meeting regularly with their counterparts in neighboring cities to negotiate the terms of a San Diego Regional CCA JPA Agreement. The JPA Agreement serves as the "constitution" of a new Authority that will be formed for the purpose of implementing and operating a CCA program for the City and other Founding Members that adopt the required ordinances by October 1 of this year. Once the JPA Board is seated in late October, the Board will take the next steps in hiring key vendors and Authority staff, setting a myriad of operational policies, establishing the Authority's power mix, rates and programs, and moving toward customer enrollment and launch planned for 2021.

During the months of meetings and negotiations, several issues and provisions of the JPA were discussed. The following provides a brief summary of the most debated issues and how they were ultimately resolved to achieve consensus among multiple municipalities and stakeholder groups, some of whom had opposing views.

<b>Issue</b>	<b>Concern/Request</b>	<b>Resolution</b>
Weighted Voting	The City of San Diego has too much power in a weighted vote situation; Prefer equal vote (1	Understanding that the weighted vote is rarely used (only once in the 9 years CCAs have existed) and acknowledging the concerns of the smaller cities, the City of San Diego

	member, 1 vote) in all cases.	made the following concessions in Section 4.11.2 to mitigate concerns: 1) three (not 2) directors are needed to call for a weighted vote after an equal vote; 2) the City agreed to cap its weighted vote at 49% even though its annual energy usage puts it at ~75%; 3) it takes 67% or 2/3rds vote to overturn an action taken by equal vote; 4) no action can be taken solely by weighted vote.
Environmental Goals	Original JPA draft language not specific enough w/r/t renewable energy goals, use of unbundled RECs, and coal/nuclear sources	Updated language in recital 6(c) and section 2.3 to achieve a 100% renewable energy portfolio by 2035, or sooner. Strengthened language in section 6.4 to prioritize use of “category 1” and avoid (but not prohibit) use of “category 2 and 3” RECs <sup>1</sup> ; stated no procurement of coal and avoidance of nuclear resources.
Board Representation	Smaller cities requested flexibility with appointment of alternate Director.	Amended section 4.1.3 to say that Alternate directors need not be a member of the City’s governing body.
Local Power Development	Local power development is not adequately prioritized	Amended language in Recital 6(e) to give local power procurement priority weighting.
Customer Programs	Concern about subsidizing programs serving only certain customers; concern about limiting benefit to local community groups	Language amended in Recital 6(g) and section 4.6.1 to clarify that programs will serve all SDRCCCEA customers and also allow support of community-based energy/sustainability programs.
Member Contributions	Concern about asking for member contributions to the JPA	Amended language in section 7.3.4 that clarifies that parties are not required to make financial contributions to the JPA.
Committees	Request Community Advisory Cmte (CAC) be	Amended language in section 5.10.3 to require a CAC; left technical committee permissive since staff will

<sup>1</sup> Category 1 RECs are bundled together with procurement of energy delivered to a California Balancing Authority (CBA). Category 2 RECs come from the procurement of energy from a Renewable Portfolio Standard eligible facility that has not already committed energy to another party and energy is not sold back to the generator; renewable energy is firm and shaped with substitute energy scheduled into a CBA within a calendar year. Category 3 RECs are unbundled and procured separately from underlying energy.

	<u>required</u> rather than permissive	be energy/utility experts and the Board/CEO can decide once formed.
Coalition/Community Concerns	Equity/Communities of Concern	Added language as new Recital 6 (m): Pursue purposeful and focused investment in communities of concern, prioritization of local renewable power and workforce development and policies and programs centered on economic, environmental and social equity.
Coalition/Community Concerns	Prevailing wage	Added prevailing wage jobs, to the quantifiable economic benefits that are listed in recital 6 (h).
Coalition/Community Concerns	Collective bargaining	Amended language in Recital 6 (O) to include “efficient consideration of petitions to unionize”.

Timing to Support 2021 Launch

The desire to launch CCA service in 2021 has been a consistent objective among the cities interested in forming a regional JPA. In February 2018, the California Public Utilities Commission issued Resolution E-4907 establishing a registration process and timeline for new and expanding CCAs. E-4907 requires a one-year period between submittal of a CCA Implementation Plan, which must occur on or before January 1 of a given year, and program launch/customer enrollment. Thus, in order for SDRCCEA to begin serving customers in 2021 as is the stated goal, the JPA must submit to the CPUC an Implementation Plan and Statement of Intent by January 1, 2020 at the latest.

We recognize that this is an extremely tight timeline with many tasks to complete by year end. To meet the State-mandated timeline, staff has established a deadline of October 1, 2019 for interested jurisdictions to adopt the required CCA/JPA ordinances in order to seat the Board by late October. This leaves November and December to set power targets, update load projections and complete the Implementation Plan, which we hope to have adopted and submitted prior to the holiday break. We are on target to complete these and other required tasks within the established timeframe.

It is worth noting that any delay such as a need to renegotiate JPA terms will make a 2021 program launch virtually impossible. For this reason, we respectfully ask that Council consider this agenda item a pass/fail vote since other cities have already set a vote to adopt their ordinances and there will be no time to renegotiate terms and schedule new votes in advance of the October 1 deadline.

## Risks of Delay

Given the time sensitivity, staff has been asked to provide an explanation of the risks of delaying implementation by a year and launching in 2022. The following risks have been identified:

- (a) Environmental: The environmental costs of delaying one year slows the momentum toward achieving the City's CAP targets to reach 100% renewable electricity supply city-wide by 2035, or potentially sooner with a CCA. In light of other emissions sources being more difficult to achieve, moving this initiative forward demonstrates commitment by the City of Chula Vista to implementing our CAP.
- (b) Economic: The economic impacts of a delay affect ratepayers who will continue to pay higher electric generation rates as well as the new Authority which may be strapped with higher exit fees and higher costs of power due to market fluctuations with one year less of revenue collection. Both of these conditions affect the Authority's ability to offer customer rate discounts.
- (c) Regulatory: The regulatory and legislative landscape relating to energy supply and markets is dynamic. Without more substantial representation by the San Diego region, decisions will continue to be made without true representation of our residents' and businesses' best interests.
- (d) Political: Many San Diego jurisdictions are considering CCA under various governance models. If SDRCCEA does not move forward toward a 2021 launch, it is possible that cities previously committed to the regional JPA effort will go elsewhere for CCA partnerships.

## Board Appointments

As per Section 4.1 of the JPA Agreement, each member agency is allocated one Board members because there are at least 5 members of the JPA. The Board will be seated at the end of October, so appointments need to be made by September to allow time for scheduling and briefings.

## Next Steps

The following is a brief timeline of the steps required between now and the end of the year to meet the January 1 Implementation Plan submission deadline. Please keep in mind that there are additional tasks to be completed in the coming months, but these are the main ones:

<b>DATE</b>	<b>ACTION ITEM</b>
Mid-September	Issue Request For Proposals for credit and banking services and wholesale power services (City of San Diego)
October 1	Deadline for jurisdictions to pass CCA and JPA ordinances; Appoint JPA Board members
Late October	First JPA Board meeting – Orientation and initial direction for Implementation Plan
Early November	Select power service vendor(s) and review credit and banking proposals
November	Second Board Meeting; Board to review initial draft of Implementation Plan and bank partner finalists
Mid-December	Third Board Meeting – Adopt Implementation Plan and select banking partner
December 20 (prior to Jan. 1, 2020)	Submit SDRCCEA Implementation Plan to the CPUC for certification

### **DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware of and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

### **CURRENT-YEAR FISCAL IMPACT**

Joining the Regional JPA CCA would be done using existing departmental funds resulting in no new fiscal impact in the current year.

### **ONGOING FISCAL IMPACT**

Joining the Regional JPA CCA would be done using existing departmental funds resulting in no ongoing fiscal impacts additionally.

### **ATTACHMENTS**

1. San Diego Regional Community Choice Energy Authority Joint Powers Agreement

*Staff Contact: Cory Downs*