



OROVILLE CITY COUNCIL

Council Chambers
1735 Montgomery Street
Oroville, CA. 95965

October 01, 2019
REGULAR MEETING
CLOSED SESSION 5:30 PM
OPEN SESSION 6:00 PM
AGENDA

REQUESTS TO ADDRESS COUNCIL

If you would like to address the Council at this meeting, you are requested to complete the blue speaker request form (located on the wall by the agendas) and hand it to the City Clerk, who is seated on the right of the Council Chamber. The form assists the Clerk with minute taking and assists the Mayor or presiding chair in conducting an orderly meeting. Providing personal information on the form is voluntary. For scheduled agenda items, **please submit the form prior to the conclusion of the staff presentation for that item.** Council has established time limitations of two (2) minutes per speaker on all items and an overall time limit of thirty minutes for non-agenda items. If more than 10 speaker cards are submitted for non-agenda items, the time limitation would be reduced to one and a half minutes per speaker. If more than 15 speaker cards are submitted for non-agenda items, the first 15 speakers will be randomly selected to speak at the beginning of the meeting, with the remaining speakers given an opportunity at the end. **(California Government Code §54954.3(b)).** Pursuant to Government Code Section 54954.2, the Council is prohibited from taking action except for a brief response from the Council or staff to statements or questions relating to a non-agenda item.

CALL TO ORDER / ROLL CALL

Council Members: David Pittman, Eric Smith, Linda Draper, Art Hatley, Janet Goodson, Vice Mayor Scott Thomson, Mayor Chuck Reynolds

CLOSED SESSION

The Council will hold a Closed Session on the following:

1. Pursuant to Government Code section 54957.6, the Council will meet with Labor Negotiators and City Attorney to discuss labor negotiations for the following represented groups: Oroville Firefighters' Association, Oroville Police Officers Association (Sworn and Non-Sworn), Oroville Public Safety Mid-Managers Association, Oroville Management and Confidential Association, and Oroville City Employees Association.
2. Pursuant to Government Code Section 54957(b), the Council will meet City Administrator, Personnel Officer, and/or City Attorney to consider the employment related to the following positions: Finance Director

OPEN SESSION

1. Announcement from Closed Session
2. Pledge of Allegiance
3. Adoption of Agenda

PUBLIC COMMUNICATION – HEARING OF NON-AGENDA ITEMS

This is the time to address the Council about any item not listed on the agenda. If you wish to address the Council on an item listed on the agenda, please follow the directions listed above.

CONSENT CALENDAR

Consent calendar **items 1 - 3** are adopted in one action by the Council. Items that are removed will be discussed and voted on immediately after adoption of consent calendar items.

1. **APPROVAL OF THE MINUTES**

The Council may approve the minutes from the September 5, 2019 Special Meeting and September 17, 2019 regular meeting.

RECOMMENDATION

Approve the Minutes of September 5, 2019 and September 17, 2019.

2. **CONSIDER AND ADOPT THE UPDATED MASTER SALARY SCHEDULE AND THE JOB DESCRIPTION FOR ASSISTANT CITY ADMINISTRATOR**

The City Council will consider and adopt the updated master salary schedule and the job description for the Assistant City Administrator

RECOMMENDATION

Approve Updated Master Salary Schedule and the job description for Assistant City Administrator.

3. **2019 PAVEMENT REHABILITATION PROJECT - SELECTION OF A CONTRACTOR**

The Council may consider approving the bids and awarding a contract to Lamson Construction to construction the 2019 Pavement Rehabilitation Project.

RECOMMENDATION

Staff recommends awarding a contract to Lamson Construction for \$993,969.50.

REGULAR BUSINESS

4. POTENTIAL PARTICIPATION IN THE BUTTE CHOICE JOINT POWERS AGREEMENT, A NEW COMMUNITY CHOICE AGGREGATION (CCA) ENTITY BY BUTTE COUNTY AND CHICO

The Butte Choice Joint Powers Agreement (JPA) is about to be formed by Butte County and Chico. Oroville has an opportunity to join the JPA, which when launched in late 2020 is likely to be able to save Oroville businesses and residents 2% or more on their electricity bills, while at the same time providing at least 33% green energy.

RECOMMENDATION

1. Direct Staff to bring back to Council on October 15, 2019 the first reading of an ordinance authorizing implementation of a Community Choice Aggregation Program as a prerequisite to joining the Butte Choice Energy Joint Powers Agreement; or
2. Take no action at this time.

5. ACCEPTANCE OF PROPOSAL FROM DESIGNS BUILD INCORPORATED (DBI) FOR THE DISPATCH CENTER AND CAPITAL IMPROVEMENT PROJECT

The Council may consider accepting a proposal received from Designs Build Incorporated (DBI) for the demolition and remodel of the Dispatch Center and Emergency Operation Center (EOC) at the Public Safety Building.

RECOMMENDATION

Adopt Resolution No. 8817 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO SIGN AND ACCEPT THE PROPOSAL WITH DESIGN BUILD INCORPORATED (DBI), AUTHORIZING DBI TO COMPLETE THE PROPOSED DEMOLITION AND REMODEL AT THE PUBLIC SAFETY DEPARTMENT, IN THE AMOUNT OF \$378,509.00.

6. LIMITING OR PROHIBITING THE SALE OF FLAVORED TOBACCO PRODUCTS IN OROVILLE

The Council may consider adopting an ordinance that either limits the sale of flavored tobacco products to smoke shops, or that prohibits the sale outright.

RECOMMENDATION

Direct staff to prepare an ordinance that distinguishes between tobacco products and flavored tobacco products, and that also limits the sale of all flavored tobacco products to smoke shops

or

Prohibits the sale of all flavored tobacco products within City limits; and

Direct Staff to bring the matter before the Planning Commission on October 24, then to Council for a First reading on November 5 or 19, and a second reading as soon as possible after that.

7. POTENTIAL OPTIONS FOR IMPROVING THE QUALITY OF LIFE IN THE CITY OF OROVILLE

The Council will discuss and review activities that may have reduced the quality of life in Oroville and provide staff direction regarding potential staffing, programs, policies & procedures to assist with improving those issues.

RECOMMENDATION

Staff is making the following recommendations:

1. Authorize necessary budget amendments to fund and implement the following positions, including the purchase of vehicles, for a Problem Oriented Policing Team: one (1) Police Sergeant, two (2) Police Officers, one (1) Municipal Law Enforcement Officer and one (1) Fire Prevention Officer. (Accurate prices for associated vehicles would be brought back to council prior to purchasing)
2. Authorize the necessary budget amendment to increase staffing within the City Works Program and fund for the program year-round.
3. Provide staff with direction on moving forward with creating an ordinance requiring retail businesses, in the City of Oroville, to utilize locking shopping carts.
4. Provide staff with direction on moving forward with a program focused on assisting our homeless population, with transportation needs, to be reunited with family, and install a donation portal on the city website to assist in funding this program.

8. CITIZEN APPOINTMENTS TO THE OROVILLE PARKS COMMISSION, HOUSING LOAN ADVISORY COMMITTEE AND SOUTHSIDE COMMUNITY CENTER ADVISORY COMMITTEE

City Council will consider and appoint citizens to the Oroville Parks Commission, Housing Loan Advisory Committee and Southside Community Center Advisory Committee

RECOMMENDATION

Appoint Kay Castro to serve on the Oroville Parks Commission with her term ending on June 20, 2024; and appoint Jason McClure to the Housing Loan Advisory Committee with his term ending on June 30, 2021; and appoint one applicant to serve on the Southside Community Center Advisory Committee with term expiring on June 30, 2023.

REPORTS / DISCUSSIONS / CORRESPONDENCE

1. Council Announcements and Reports
2. Future Agenda Items
3. Administration Reports
4. Correspondence

i. League of California Cities Conference Resolutions

ii. PG&E's Request to increase rates for the Catastrophic Event Memorandum Account

ADJOURN THE MEETING

The meeting will be adjourned. A regular meeting of the Oroville City Council will be held on October 15, 2019 at 5:30 p.m.

Accommodating Those Individuals with Special Needs – In compliance with the Americans with Disabilities Act, the City of Oroville encourages those with disabilities to participate fully in the public meeting process. If you have a special need in order to allow you to attend or participate in our public meetings, please contact the City Clerk at (530) 538-2535, well in advance of the regular meeting you wish to attend, so that we may make every reasonable effort to accommodate you. Documents distributed for public session items, less than 72 hours prior to meeting, are available for public inspection at City Hall, 1735 Montgomery Street, Oroville, California.

Recordings - All meetings are recorded and broadcast live on cityoforoville.org and YouTube.



**September 05, 2019
MINUTES**

The agenda for this meeting was posted on September 4, 2019 at 9am. This meeting was recorded live and may be viewed at cityoforoville.org or on Youtube.

CALL TO ORDER / ROLL CALL

Mayor Reynolds called the meeting to order at 9:00am

PRESENT: Council Members: David Pittman, Eric Smith, Linda Draper, Art Hatley, Janet Goodson, Vice Mayor Scott Thomson, Mayor Chuck Reynolds

ABSENT: None

STAFF: City Administrator Bill LaGrone, Assistant City Clerk Jackie Glover, Finance Director Ruth Wright, City Attorney Scott Huber

OPEN SESSION

1. Pledge of Allegiance – led by Mayor Reynolds
2. Adoption of Agenda – Motion by Council Member Smith and second by Vice Mayor Thomson to adopt the agenda. Motion approved.

AYES: Council Members Hatley, Smith, Pittman, Goodson, Draper, Vice Mayor Thomson, Mayor Reynolds

NOES: None

ABSTAIN: None

ABSENT: None

The Following individuals spoke on agenda items:

- Cheri Bunker – Item 1 & 2
- Marlene Del Rosario – Item 1
- Tasha Levinson – Item 1
- William Bynum – Item 1
- Jason McClure – Item 2

REGULAR BUSINESS – Action Calendar

1. POLICY RELATED TO APPOINTMENT AUTHORITY OF MAYOR

The Council considered approving a policy related to the appointment authority of the Mayor.

Motion by Vice Mayor Thomson and second by Council Member Pittman to adopt this item as amended adopting Resolution 8813 with a simple majority with amendments to the NOW, THEREFORE section:

1. Paragraph 1: Adds in “Citizens appointments to” on third line from the bottom between the words “to” and “the”

2. Paragraph 2: Edit the last sentence to state "Appointments shall expire in February of each year unless otherwise announced by the mayor prior to that appointment."

Item 1.

Resolution 8813, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA ADOPTING A POLICY REGARDING COUNCIL COMMITTEE APPOINTMENTS.

Motion passed.

AYES: Council Members Hatley, Smith, Pittman, Goodson, Draper, Vice Mayor Thomson, Mayor Reynolds
NOES: None
ABSTAIN: None
ABSENT: None

2. VOID PRIOR APPOINTMENTS TO COMMITTEES, COMMISSIONS, AND BOARDS AND MAKE NEW APPOINTMENTS TO COMMITTEES, COMMISSIONS, AND BOARDS

The Council considered voiding prior appointments of Council Members to committees, commissions and boards. In addition, the Mayor considered making new appointments with Council advice and consent, as outlined in Government Code 40605 and as approved by policy of the City Council prior to this agenda item.

1. Motion by Council Member Pittman and second by Council Member Smith to void the actions of February 19, 2019, March 5, 2019 and March 19, 2019 related to the appointment of members of the Council to various committees, commissions and boards. Motion Passed.

AYES: Council Members Hatley, Smith, Pittman, Goodson, Draper, Vice Mayor Thomson, Mayor Reynolds
NOES: None
ABSTAIN: None
ABSENT: None

2. Motion by Mayor Reynolds and second by Thomson to make new appointments to committees, commissions and boards as follows:

ALUC – David Pittman

Arts Commission – Linda Draper, Alt – Eric Smith

BCAG – Chuck Reynolds, Alt – Scott Thomson

BCAQCB – Chuck Reynolds, Alt – Scott Thomson

Chamber of Commerce – Scott Thomson, Alt – David Pittman

Citizens Oversight Committee – Scott Thomson, Eric Smith, Alt – David Pittman

COC – Eric Smith, Alt – Linda Draper

Executive Committee – Chuck Reynolds, David Pittman, Eric Smith

League of Cal. Cities – Chuck Reynolds, Alt – Janet Goodson

Loan Advisory Committees – Chuck Reynolds, David Pittman, Eric Smith

ODBA – Eric Smith

ORAC – Scott Thomson, Alt – Eric Smith

SBF – Chuck Reynolds, Scott Thomson, David Pittman

SC-OR – Chuck Reynolds, Alt – David Pittman

WC GSA – Janet Goodson, Alt – Art Hatley

STAGE – Scott Thomson

Tourism – Eric Smith

Veterans Memorial Park – Art Hatley

Motion Passed.

AYES: Council Members Hatley, Smith, Pittman, Goodson, Draper, Vice Mayor Thomson,
Mayor Reynolds
NOES: None
ABSTAIN: None
ABSENT: None

ADJOURN

Mayor Reynolds adjourned the meeting at 10:20am. Adjourn to Tuesday, September 17, 2019 at 5:30 P.M.

APPROVED:

ATTESTED:

Mayor Chuck Reynolds

Assistant City Clerk Jackie Glover



**September 17, 2019
MINUTES**

This agenda was posted on September 13, 2019 at 2:30pm. This meeting was recorded and may be viewed at cityoforoville.org or on YouTube.

CALL TO ORDER / ROLL CALL

Meeting called to order by Mayor Reynolds at 5:30pm.

PRESENT: Council Members: David Pittman, Eric Smith, Linda Draper, Art Hatley, Janet Goodson, Vice Mayor Scott Thomson, Mayor Chuck Reynolds

CLOSED SESSION

The Council convened to Closed Session on the following:

1. Pursuant to Government Code Section 54957(b), the Council will meet City Administrator, Personnel Officer, and/or City Attorney to consider the employment related to the following positions: Finance Director

OPEN SESSION

The council reconvened at 6:00pm

1. Announcement from Closed Session – Direction give; no action taken.
2. Pledge of Allegiance – Led by Mayor Reynolds
3. Adoption of Agenda – Motion by Council Member Smith and second by Council Member Pittman to adopt the agenda. Motion passed.

AYES: Council Members Hatley, Smith, Pittman, Goodson, Draper, Vice Mayor Thomson, Mayor Reynolds.

NOES: None

ABSTAIN: None

ABSENT: None

PRESENTATIONS AND PROCLAMATIONS

1. Brad Long presented on Veterans Housing and Community Development
2. Deanne Blankenship from the California Health Collaborative presented on restricting the sale of Flavored Tobacco products. Two students joined her in the presentation.

PUBLIC COMMUNICATION – HEARING OF NON-AGENDA ITEMS

The following individuals spoke on non-agenda items:

- Melva Burkhart
- Lex Parker
- Bobby O'Reiley
- Bill Speer

- Albert Stiefel
- Celia Hirschman
- The Cameraman

Item 1.

The following individuals spoke on agenda items:

- The Cameraman – Items 4 and 6
- Celia Hirschman – Presentations, Item 7
- Tasha Levinson – Item 7
- Bobby O'Reiley – Item 8
- Bill Speer – Item 8

CONSENT CALENDAR

Motion by Council Member Goodson and second by Council Member Smith to approve items 1-3 of the consent calendar. Motion passed.

AYES: Council Members Hatley, Smith, Pittman, Goodson, Draper, Vice Mayor Thomson, Mayor Reynolds.
 NOES: None
 ABSTAIN: None
 ABSENT: None

1. APPROVAL OF THE MINUTES

The City Council approved the minutes of September 3, 2019.

2. CONSIDER AND APPROVE AMENDING JOB DESCRIPTION FOR FIRE FIGHTER

The Council considered and approved the amended job descriptions for Fire Fighter.

3. FORECLOSURE OF CITY PROPERTY LOCATED AT 1250 ROBINSON ST.

The Council adopt Resolution No. 8814 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE ACTING CITY ADMINISTRATOR AND/OR MAYOR TO EXECUTE ALL DOCUMENTS AND ANY AMENDMENTS THERETO NECESSARY TO INITIATE AND COMPLETE FORECLOSURE PROCEEDINGS ON REAL PROPERTIES LOCATED AT 1250 ROBINSON ST., OROVILLE - (012-02-2139).

ITEMS REMOVED FROM CONSENT CALENDAR

4. REQUEST FOR STREET NAME CHANGE

Motion by Council Member Goodson and second by Council Member Draper to approve the street name changes listed in the staff report and to add them to the City Map. Motion passed.

AYES: Council Members Hatley, Smith, Pittman, Goodson, Draper, Vice Mayor Thomson, Mayor Reynolds.
 NOES: None
 ABSTAIN: None
 ABSENT: None

5. STATE ROUTE 162 PEDESTRIAN/BICYCLE DISABLED MOBILITY AND SAFETY IMPROVEMENTS PROJECT DESIGN AND MANAGEMENT CONTRACT

Item 1.

This item was pulled from the agenda. No discussion or action taken.

6. AUTHORIZATION TO RELEASE A REQUEST FOR PROPOSAL FOR JANITORIAL SERVICE AT CITY HALL

Motion by Council Member Goodson and second by Council Member Smith to authorize staff to release a Request for Proposal for Janitorial Services at City Hall, 1735 Montgomery Street. Motion passed.

AYES: Council Members Hatley, Smith, Pittman, Goodson, Draper, Vice Mayor Thomson, Mayor Reynolds.
NOES: None
ABSTAIN: None
ABSENT: None

REGULAR BUSINESS

7. EXECUTIVE STRUCTURE REORGANIZATION

The Council may consider approving the restructure of the executive structure of the City and authorize the recruitment and reclassification of employees to fill those positions.

RECOMMENDATION

Motion by Council Member Goodson and second by Council Member Hatley to Adopt Resolution No. 8815 with an amendment to the position titles to use the term "Deputy" instead of "Assistant" City Administrators and to name the positions Acting Deputy City Administrators until contracts are reached. Motion passed.

AYES: Council Members Hatley, Smith, Pittman, Goodson, Draper, Vice Mayor Thomson, Mayor Reynolds.
NOES: None
ABSTAIN: None
ABSENT: None

Mayor Reynolds declared the position of Deputy City Administrator – Community Development vacant.

8. POTENTIAL CHARTER AMENDMENTS AND TIMELINE

The Council directed staff to bring back an item on October 15, 2019 to create an AD HOC Charter Amendment Committee and to appoint council and citizen members.

REPORTS / DISCUSSIONS / CORRESPONDENCE

1. Council Announcements and Reports
 - a. Reynolds – Attended the South Oroville African American Historical Society event and an event at the Southside Community Center honoring two of our police officers.
 - b. Attended the Continuum of Care meeting on September 16 – Point in time survey is almost ready to be released.
 - c. Smith – Attended Continuum of Care meeting – Board of Supervisors approved 4 positions focused on homelessness.

- d. Goodson – Attended the NAACP meeting – they are held 3rd Monday at the Southside Community Center; League of California Cities - SB5 is establishing state partnership for affordable and ongoing sustainable funding for housing.
 - e. Pittman – Met with staff from Kamala Harris's office to talk about housing
 - f. Thomson – Toured the "Man Camp" where there were 1300 people, now 650 as the campfire clean up dies down
2. Future Agenda Items – Thomson requested the Fencing on Table Mountain – City Administrator Bill LaGrone gave an update on the project. Smith – Requested that the City work on a Prop 68 Funding grant for recreation trails and green ways and bring it to the council.
3. Administration Reports
- a. City Administrator Bill LaGrone – The City has received the 2 Million from the State for Campfire Impacts; Met with staff from Kamala Harris's office - spoke about PG&E impacts – power shutoffs and the homelessness and campfire impact; toured the Odin trailers – labor camp – considering a use for the homeless.
 - b. Project Manager Tom Lando – Meeting next week with Bret Sanders to discuss funding for Oroville
 - c. Community Development Director Leo DePaola – toured Odin Trailers; Bring Ring of Butte County to discuss Alternative Energy and will bring to council at the next meeting; Oct. 15 – Triannual Code Adoption first reading; Working with developer on Vista Del Oro; Forebay Estates – Chip is interested; moving forward on a few other subdivisions; Meet and Greet for City Administrator on Sept. 18th at the Table Mountain Golf Course.
 - d. Public Safety Director Joe Deal – Neighborhood watch a great solution for the Cottonwood Estates, and extra patrols; Homeless outreach – partner with Butte County Behavioral Health for about a year now offering services and has increased now to two days a week; Salmon Festival September 28th; Dinner with the Fire Department on the 19th and 20th for council.
4. Correspondence – None

ADJOURN THE MEETING

Mayor Reynolds Adjourned the meeting at 8:43pm. A regular meeting of the Oroville City Council will be held on October 1, 2019 at 5:30 p.m.

APPROVED:

ATTESTED:

Mayor Chuck Reynolds

Assistant City Clerk Jackie Glover



CITY OF OROVILLE STAFF REPORT

TO: OROVILLE CITY COUNCIL

**FROM: LIZ EHRENSTROM, HUMAN RESOURCE MANAGER
BILL LAGRONE, CITY ADMINISTRATOR**

**RE: CONSIDER AND ADOPT THE UPDATED MASTER SALARY SCHEDULE
AND THE JOB DESCRIPTION FOR ASSISTANT CITY ADMINISTRATOR**

DATE: OCTOBER 1, 2019

SUMMARY

The City Council will consider and adopt the updated master salary schedule and the job description for the Assistant City Administrator

DISCUSSION

The City Council consider and approved an update to the master salary schedule to include the new titles and salary ranges for department heads, adding the salary range for the Project Manager/Sr. Civil Engineer, and returning Council's 10% cut back to their stipend. CalPERS requires the City Council to approve the master salary schedule every time there is a change.

At the September 17, 2019, City Council Meeting the Council approved the position of Deputy City Administrator. Further research of the Municipal Code revealed the position of Assistant City Administrator had already been created (Section 2.12.020). Staff reverted the name back to Assistant City Administrator and created the attached job description.

FISCAL IMPACT

None

RECOMMENDATION

Approve Updated Master Salary Schedule and the job description for Assistant City Administrator.

ATTACHMENTS

Updated Master Salary Schedule
Assistant City Administrator Job Description

HR Manager	\$32.50	\$33.32	\$34.13	\$34.98	\$35.84	\$36.73	\$37.63	\$38.57	\$39.51	\$40.50	\$41.48	\$42.52	\$43.56	\$44.65	\$45.74	Hourly
IT Manager																Item 2.
Building Official																
Public Works Supervisors																
SBF Coord/Program Spec.	\$54,301.62	\$55,659.16	\$57,016.70	\$58,442.12	\$59,867.54	\$61,364.22	\$62,860.91	\$64,432.44	\$66,003.96	\$67,654.06	\$69,304.16	\$71,036.76	\$72,769.36	\$74,588.60	\$76,407.83	Annual
	\$4,525.14	\$4,638.26	\$4,751.39	\$4,870.18	\$4,988.96	\$5,113.69	\$5,238.41	\$5,369.37	\$5,500.33	\$5,637.84	\$5,775.35	\$5,919.73	\$6,064.11	\$6,215.72	\$6,367.32	Monthly
	\$26.11	\$26.76	\$27.41	\$28.10	\$28.78	\$29.50	\$30.22	\$30.98	\$31.73	\$32.53	\$33.32	\$34.15	\$34.99	\$35.86	\$36.73	Hourly
Administrative Assistant	\$39,623.49	\$40,614.08	\$41,604.66	\$42,644.78	\$43,684.90	\$44,777.02	\$45,869.14	\$47,015.87	\$48,162.60	\$49,366.66	\$50,570.73	\$51,835.00	\$53,099.27	\$54,426.75	\$55,754.23	Annual
	\$3,301.96	\$3,384.51	\$3,467.06	\$3,553.73	\$3,640.41	\$3,731.42	\$3,822.43	\$3,917.99	\$4,013.55	\$4,113.89	\$4,214.23	\$4,319.58	\$4,424.94	\$4,535.56	\$4,646.19	Monthly
	\$19.05	\$19.53	\$20.00	\$20.50	\$21.00	\$21.53	\$22.05	\$22.60	\$23.16	\$23.73	\$24.31	\$24.92	\$25.53	\$26.17	\$26.80	Hourly
1ST TIER OROVILLE POLICE OFFICER'S ASSOCIATION SWORN SALARY SCHEDULE																
CLASSIFICATION:	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	STEP H								
Sergeant	\$66,002.01	\$69,302.11	\$72,767.22	\$76,405.58	\$80,225.86	\$84,237.15	\$88,449.01	\$92,871.46	Annual							
	\$5,500.17	\$5,775.18	\$6,063.93	\$6,367.13	\$6,685.49	\$7,019.76	\$7,370.75	\$7,739.29	Monthly							
	\$31.73	\$33.32	\$34.98	\$36.73	\$38.57	\$40.50	\$42.52	\$44.65	Hourly							
Rotational Detective/OIC	\$55,396.00	\$58,165.80	\$61,074.09	\$64,127.79	\$67,334.18	\$70,700.89	\$74,235.94	\$77,947.74	Annual							
5% Above Police Officer	\$4,616.33	\$4,847.15	\$5,089.51	\$5,343.98	\$5,611.18	\$5,891.74	\$6,186.33	\$6,495.64	Monthly							
	\$26.63	\$27.96	\$29.36	\$30.83	\$32.37	\$33.99	\$35.69	\$37.47	Hourly							
Police Officer	\$52,758.09	\$55,395.99	\$58,165.79	\$61,074.08	\$64,127.79	\$67,334.18	\$70,700.89	\$74,235.93	Annual							
	\$4,396.51	\$4,616.33	\$4,847.15	\$5,089.51	\$5,343.98	\$5,611.18	\$5,891.74	\$6,186.33	Monthly							
	\$25.36	\$26.63	\$27.96	\$29.36	\$30.83	\$32.37	\$33.99	\$35.69	Hourly							
Reserve Police Officer	\$25.36	\$26.63	\$27.96	\$29.36	\$30.83	\$32.37	\$33.99	\$35.69	Hourly							
Reserve Investigator	\$25.00								Hourly							
1ST TIER OROVILLE POLICE OFFICER'S ASSOCIATION NON-SWORN SALARY SCHEDULE																
CLASSIFICATION:	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G									
Police Admin. Assistant	\$38,229.90	\$40,141.40	\$42,148.46	\$44,255.89	\$46,468.68	\$48,792.12	\$51,231.72	Annual								
	\$3,185.83	\$3,345.12	\$3,512.37	\$3,687.99	\$3,872.39	\$4,066.01	\$4,269.31	Monthly								
	\$18.38	\$19.30	\$20.26	\$21.28	\$22.34	\$23.46	\$24.63	Hourly								
Police Dispatcher	\$38,289.18	\$40,203.64	\$42,213.82	\$44,324.51	\$46,540.74	\$48,867.77	\$51,311.16	Annual								
	\$3,190.77	\$3,350.30	\$3,517.82	\$3,693.71	\$3,878.39	\$4,072.31	\$4,275.93	Monthly								
	\$18.41	\$19.33	\$20.30	\$21.31	\$22.38	\$23.49	\$24.67	Hourly								
MLE	\$34,039.80	\$35,741.79	\$37,528.88	\$39,405.32	\$41,375.59	\$43,444.37	\$45,616.59	Annual								
	\$2,836.65	\$2,978.48	\$3,127.41	\$3,283.78	\$3,447.97	\$3,620.36	\$3,801.38	Monthly								
	\$16.37	\$17.18	\$18.04	\$18.94	\$19.89	\$20.89	\$21.93	Hourly								
Police Records Techician	\$32,036.15	\$33,637.96	\$35,319.86	\$37,085.85	\$38,940.14	\$40,887.15	\$42,931.50	Annual								
	\$2,669.68	\$2,803.16	\$2,943.32	\$3,090.49	\$3,245.01	\$3,407.26	\$3,577.63	Monthly								
	\$15.40	\$16.17	\$16.98	\$17.83	\$18.72	\$19.66	\$20.64	Hourly								
Police Recuit	\$38,417.60							Annual								
	\$3,201.47							Monthly								
	\$18.47							Hourly								
2ND TIER OROVILLE POLICE OFFICER'S ASSOCIATION SWORN SALARY SCHEDULE																
CLASSIFICATION:	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	STEP H	STEP I	STEP J	STEP K	STEP L	STEP M	STEP N	STEP O	
Sergeant	\$66,002.01	\$67,652.06	\$69,302.11	\$71,034.66	\$72,767.22	\$74,586.40	\$76,405.58	\$78,315.72	\$80,225.86	\$82,231.50	\$84,237.15	\$86,343.08	\$88,449.01	\$90,660.23	\$92,871.46	Annual
	\$5,500.17	\$5,637.67	\$5,775.18	\$5,919.56	\$6,063.93	\$6,215.53	\$6,367.13	\$6,526.31	\$6,685.49	\$6,852.63	\$7,019.76	\$7,195.26	\$7,370.75	\$7,555.02	\$7,739.29	Monthly
	\$31.73	\$32.53	\$33.32	\$34.15	\$34.98	\$35.86	\$36.73	\$37.65	\$38.57	\$39.53	\$40.50	\$41.51	\$42.52	\$43.59	\$44.65	Hourly
Rotational Detective/OIC	\$55,396.00	\$56,780.90	\$58,165.80	\$59,619.95	\$61,074.09	\$62,600.94	\$64,127.79	\$65,730.99	\$67,334.18	\$69,017.54	\$70,700.89	\$72,468.42	\$74,235.94	\$76,091.84	\$77,947.74	Annual
5% Above Police Officer	\$4,616.33	\$4,731.74	\$4,847.15	\$4,968.33	\$5,089.51	\$5,216.75	\$5,343.98	\$5,477.58	\$5,611.18	\$5,751.46	\$5,891.74	\$6,039.03	\$6,186.33	\$6,340.99	\$6,495.64	Monthly
	\$26.63	\$27.30	\$27.96	\$28.66	\$29.36	\$30.10	\$30.83	\$31.60	\$32.37	\$33.18	\$33.99	\$34.84	\$35.69	\$36.58	\$37.47	Hourly
Police Officer	\$52,758.09	\$54,077.04	\$55,395.99	\$56,780.89	\$58,165.79	\$59,619.94	\$61,074.08	\$62,600.94	\$64,127.79	\$65,730.98	\$67,334.18	\$69,017.53	\$70,700.89	\$72,468.41	\$74,235.93	Annual
	\$4,396.51	\$4,506.42	\$4,616.33	\$4,731.74	\$4,847.15	\$4,968.33	\$5,089.51	\$5,216.74	\$5,343.98	\$5,477.58	\$5,611.18	\$5,751.46	\$5,891.74	\$6,039.03	\$6,186.33	15 ly
	\$25.36	\$26.00	\$26.63	\$27.30	\$27.96	\$28.66	\$29.36	\$30.10	\$30.83	\$31.60	\$32.37	\$33.18	\$33.99	\$34.84	\$35.69	

Item 2.

Reserve Police Officer	\$25.36	\$26.00	\$26.63	\$27.30	\$27.96	\$28.66	\$29.36	\$30.10	\$30.83	\$31.60	\$32.37	\$33.18	\$33.99	\$34.84	\$35.69	Hourly
Reserve Investigator	\$25.00															ly
2ND TIER OROVILLE POLICE OFFICER'S ASSOCIATION NON-SWORN SALARY SCHEDULE																Item 2.
CLASSIFICATION:	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	STEP H	STEP I	STEP J	STEP K	STEP L	STEP M			
Police Admin. Assistant	\$38,229.90	\$39,185.65	\$40,141.40	\$41,144.93	\$42,148.46	\$43,202.18	\$44,255.89	\$45,362.29	\$46,468.68	\$47,630.40	\$48,792.12	\$50,011.92	\$51,231.72	Annual		
	\$3,185.83	\$3,265.47	\$3,345.12	\$3,428.74	\$3,512.37	\$3,600.18	\$3,687.99	\$3,780.19	\$3,872.39	\$3,969.20	\$4,066.01	\$4,167.66	\$4,269.31	Monthly		
	\$18.38	\$18.84	\$19.30	\$19.78	\$20.26	\$20.77	\$21.28	\$21.81	\$22.34	\$22.90	\$23.46	\$24.04	\$24.63	Hourly		
Police Dispatcher	\$38,289.18	\$39,246.41	\$40,203.64	\$41,208.73	\$42,213.82	\$43,269.17	\$44,324.51	\$45,432.62	\$46,540.74	\$47,704.26	\$48,867.77	\$50,089.47	\$51,311.16	Annual		
	\$3,190.77	\$3,270.53	\$3,350.30	\$3,434.06	\$3,517.82	\$3,605.76	\$3,693.71	\$3,786.05	\$3,878.39	\$3,975.35	\$4,072.31	\$4,174.12	\$4,275.93	Monthly		
	\$18.41	\$18.87	\$19.33	\$19.81	\$20.30	\$20.80	\$21.31	\$21.84	\$22.38	\$22.93	\$23.49	\$24.08	\$24.67	Hourly		
MLE	\$34,039.80	\$34,890.80	\$35,741.79	\$36,635.33	\$37,528.88	\$38,467.10	\$39,405.32	\$40,390.46	\$41,375.59	\$42,409.98	\$43,444.37	\$44,530.48	\$45,616.59	Annual		
	\$2,836.65	\$2,907.57	\$2,978.48	\$3,052.94	\$3,127.41	\$3,205.59	\$3,283.78	\$3,365.87	\$3,447.97	\$3,534.16	\$3,620.36	\$3,710.87	\$3,801.38	Monthly		
	\$16.37	\$16.77	\$17.18	\$17.61	\$18.04	\$18.49	\$18.94	\$19.42	\$19.89	\$20.39	\$20.89	\$21.41	\$21.93	Hourly		
Police Records Techician	\$32,036.15	\$32,837.05	\$33,637.96	\$34,478.91	\$35,319.86	\$36,202.85	\$37,085.85	\$38,012.99	\$38,940.14	\$39,913.64	\$40,887.15	\$41,909.33	\$42,931.50	Annual		
	\$2,669.68	\$2,736.42	\$2,803.16	\$2,873.24	\$2,943.32	\$3,016.90	\$3,090.49	\$3,167.75	\$3,245.01	\$3,326.14	\$3,407.26	\$3,492.44	\$3,577.63	Monthly		
	\$15.40	\$15.79	\$16.17	\$16.58	\$16.98	\$17.41	\$17.83	\$18.28	\$18.72	\$19.19	\$19.66	\$20.15	\$20.64	Hourly		
Police Recuit	\$38,417.60							Annual								
	\$3,201.47							Monthly								
	\$18.47							Hourly								
1ST TIER OROVILLE FIRE FIGHTER'S ASSOCIATION SALARY SCHEDULE																
CLASSIFICATION:	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G									
Fire Captain	\$61,864.70	\$64,957.94	\$68,205.83	\$71,616.12	\$75,196.93	\$78,956.78	\$82,904.61	Annual								
	\$5,155.39	\$5,413.16	\$5,683.82	\$5,968.01	\$6,266.41	\$6,579.73	\$6,908.72	Monthly								
	\$21.24475	\$22.31	\$23.42	\$24.59	\$25.82	\$27.11	\$28.47	Hourly								
Fire Lieutenant	\$55,302.76	\$58,067.90	\$60,971.29	\$64,019.86	\$67,220.85	\$70,581.89	\$74,110.99	Annual								
	\$4,608.56	\$4,838.99	\$5,080.94	\$5,334.99	\$5,601.74	\$5,881.82	\$6,175.92	Monthly								
	\$18.99	\$19.94	\$20.94	\$21.98	\$23.08	\$24.24	\$25.45	Hourly								
Fire Engineer	\$52,669.29	\$55,302.75	\$58,067.89	\$60,971.29	\$64,019.85	\$67,220.84	\$70,581.89	Annual								
	\$4,389.11	\$4,608.56	\$4,838.99	\$5,080.94	\$5,334.99	\$5,601.74	\$5,881.82	Monthly								
	\$18.09	\$18.99	\$19.94	\$20.94	\$21.98	\$23.08	\$24.24	Hourly								
Firefighter	\$47,898.65	\$50,293.58	\$52,808.26	\$55,448.67	\$58,221.11	\$61,132.16	\$64,188.77	Annual								
	\$3,991.55	\$4,191.13	\$4,400.69	\$4,620.72	\$4,851.76	\$5,094.35	\$5,349.06	Monthly								
	\$16.45	\$17.27	\$18.13	\$19.04	\$19.99	\$20.99	\$22.04	Hourly								
2ND TIER OROVILLE FIRE FIGHTER'S ASSOCIATION SALARY SCHEDULE																
CLASSIFICATION:	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	STEP H	STEP I	STEP J	STEP K	STEP L	STEP M			
Fire Captain	\$61,864.70	\$63,411.32	\$64,957.94	\$66,581.88	\$68,205.83	\$69,910.98	\$71,616.12	\$73,406.53	\$75,196.93	\$77,076.85	\$78,956.78	\$80,930.70	\$82,904.61	Annual		
	\$5,155.39	\$5,284.28	\$5,413.16	\$5,548.49	\$5,683.82	\$5,825.91	\$5,968.01	\$6,117.21	\$6,266.41	\$6,423.07	\$6,579.73	\$6,744.22	\$6,908.72	Monthly		
	\$21.24	\$21.78	\$22.31	\$22.86	\$23.42	\$24.01	\$24.59	\$25.21	\$25.82	\$26.47	\$27.11	\$27.79	\$28.47	Hourly		
Fire Lieutenant	\$55,302.76	\$56,685.33	\$58,067.90	\$59,519.60	\$60,971.29	\$62,495.58	\$64,019.86	\$65,620.35	\$67,220.85	\$68,901.37	\$70,581.89	\$72,346.44	\$74,110.99	Annual		
	\$4,608.56	\$4,723.78	\$4,838.99	\$4,959.97	\$5,080.94	\$5,207.96	\$5,334.99	\$5,468.36	\$5,601.74	\$5,741.78	\$5,881.82	\$6,028.87	\$6,175.92	Monthly		
	\$18.62	\$19.47	\$19.94	\$20.44	\$20.94	\$21.46	\$21.98	\$22.53	\$23.08	\$23.66	\$24.24	\$24.84	\$25.45	Hourly		
Fire Engineer	\$52,669.29	\$53,986.02	\$55,302.75	\$56,685.32	\$58,067.89	\$59,519.59	\$60,971.29	\$62,495.57	\$64,019.85	\$65,620.35	\$67,220.84	\$68,901.36	\$70,581.89	Annual		
	\$4,389.11	\$4,498.84	\$4,608.56	\$4,723.78	\$4,838.99	\$4,959.97	\$5,080.94	\$5,207.96	\$5,334.99	\$5,468.36	\$5,601.74	\$5,741.78	\$5,881.82	Monthly		
	\$17.73	\$18.54	\$18.99	\$19.47	\$19.94	\$20.44	\$20.94	\$21.46	\$21.98	\$22.53	\$23.08	\$23.66	\$24.24	Hourly		
Firefighter	\$47,898.65	\$49,096.12	\$50,293.58	\$51,550.92	\$52,808.26	\$54,128.47	\$55,448.67	\$56,834.89	\$58,221.11	\$59,676.64	\$61,132.16	\$62,660.47	\$64,188.77	Annual		
	\$3,991.55	\$4,091.34	\$4,191.13	\$4,295.91	\$4,400.69	\$4,510.71	\$4,620.72	\$4,736.24	\$4,851.76	\$4,973.05	\$5,094.35	\$5,221.71	\$5,349.06	Monthly		
	\$16.13	\$16.86	\$17.27	\$17.70	\$18.13	\$18.59	\$19.04	\$19.52	\$19.99	\$20.49	\$20.99	\$21.52	\$22.04	Hourly		
1ST TIER OROVILLE CITY EMPLOYEE'S ASSOCIATION SALARY SCHEDULE																
CLASSIFICATION:	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	STEP H								
Associate Civil Engr.	\$70,150.83	\$73,658.37	\$77,341.29	\$81,208.35	\$85,268.77	\$89,532.21	\$94,008.82	\$98,709.26	Annual							
	\$5,845.90	\$6,138.20	\$6,445.11	\$6,767.36	\$7,105.73	\$7,461.02	\$7,834.07	\$8,225.77	Monthly							

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	\$33.73	\$35.41	\$37.18	\$39.04	\$40.99	\$43.04	\$45.20	\$47.46	Hourly
Associate Planner	\$54,230.40	\$56,941.92	\$59,789.02	\$62,778.47	\$65,917.39	\$69,213.26	\$72,673.92	\$76,307.62	Annual
	\$4,519.20	\$4,745.16	\$4,982.42	\$5,231.54	\$5,493.12	\$5,767.77	\$6,056.16	\$6,358.97	Monthly
	\$26.07	\$27.38	\$28.74	\$30.18	\$31.69	\$33.28	\$34.94	\$36.69	Hourly
Sr. Code Comp Specialist	\$53,891.78	\$56,586.37	\$59,415.69	\$62,386.47	\$65,505.80	\$68,781.09	\$72,220.14	\$75,831.15	Annual
	\$4,490.98	\$4,715.53	\$4,951.31	\$5,198.87	\$5,458.82	\$5,731.76	\$6,018.34	\$6,319.26	Monthly
	\$25.91	\$27.20	\$28.57	\$29.99	\$31.49	\$33.07	\$34.72	\$36.46	Hourly
GIS Specialist	\$53,626.88	\$56,308.22	\$59,123.64	\$62,079.82	\$65,183.81	\$68,443.00	\$71,865.15	\$75,458.41	Annual
	\$4,468.91	\$4,692.35	\$4,926.97	\$5,173.32	\$5,431.98	\$5,703.58	\$5,988.76	\$6,288.20	Monthly
	\$25.78	\$27.07	\$28.42	\$29.85	\$31.34	\$32.91	\$34.55	\$36.28	Hourly
Assistant Planner	\$49,930.36	\$52,426.88	\$55,048.22	\$57,800.63	\$60,690.66	\$63,725.20	\$66,911.46	\$70,257.03	Annual
	\$4,160.86	\$4,368.91	\$4,587.35	\$4,816.72	\$5,057.56	\$5,310.43	\$5,575.95	\$5,854.75	Monthly
	\$24.00	\$25.21	\$26.47	\$27.79	\$29.18	\$30.64	\$32.17	\$33.78	Hourly
Signal Tech/Electrician	\$48,345.35	\$50,762.62	\$53,300.75	\$55,965.79	\$58,764.08	\$61,702.28	\$64,787.39	\$68,026.76	Annual
	\$4,028.78	\$4,230.22	\$4,441.73	\$4,663.82	\$4,897.01	\$5,141.86	\$5,398.95	\$5,668.90	Monthly
	\$23.24	\$24.41	\$25.63	\$26.91	\$28.25	\$29.66	\$31.15	\$32.71	Hourly
Code Enforc Specialist	\$44,336.91	\$46,553.76	\$48,881.44	\$51,325.52	\$53,891.79	\$56,586.38	\$59,415.70	\$62,386.48	Annual
	\$3,694.74	\$3,879.48	\$4,073.45	\$4,277.13	\$4,490.98	\$4,715.53	\$4,951.31	\$5,198.87	Monthly
	\$21.31582	\$22.38161	\$23.50069	\$24.67573	\$25.90952	\$27.20499	\$28.56524	\$29.99350	Hourly
Admin/Program Analyst II	\$43,762.61	\$45,950.74	\$48,248.28	\$50,660.69	\$53,193.73	\$55,853.41	\$58,646.08	\$61,578.39	Annual
	\$3,646.88	\$3,829.23	\$4,020.69	\$4,221.72	\$4,432.81	\$4,654.45	\$4,887.17	\$5,131.53	Monthly
	\$21.04	\$22.09	\$23.20	\$24.36	\$25.57	\$26.85	\$28.20	\$29.60	Hourly
Building/Fire Inspector	\$42,895.00	\$45,039.75	\$47,291.74	\$49,656.32	\$52,139.14	\$54,746.10	\$57,483.40	\$60,357.57	Annual
Code & Cons Compl Spec.	\$3,574.58	\$3,753.31	\$3,940.98	\$4,138.03	\$4,344.93	\$4,562.17	\$4,790.28	\$5,029.80	Monthly
Construction Inspector	\$20.62	\$21.65	\$22.74	\$23.87	\$25.07	\$26.32	\$27.64	\$29.02	Hourly
Sr. Accountant Technician	\$40,578.77	\$42,607.71	\$44,738.09	\$46,975.00	\$49,323.75	\$51,789.94	\$54,379.43	\$57,098.40	Annual
	\$3,381.56	\$3,550.64	\$3,728.17	\$3,914.58	\$4,110.31	\$4,315.83	\$4,531.62	\$4,758.20	Monthly
	\$19.51	\$20.48	\$21.51	\$22.58	\$23.71	\$24.90	\$26.14	\$27.45	Hourly
Program Analyst I	\$38,994.09	\$40,943.79	\$42,990.98	\$45,140.53	\$47,397.56	\$49,767.44	\$52,255.81	\$54,868.60	Annual
	\$3,249.51	\$3,411.98	\$3,582.58	\$3,761.71	\$3,949.80	\$4,147.29	\$4,354.65	\$4,572.38	Monthly
	\$18.75	\$19.68	\$20.67	\$21.70	\$22.79	\$23.93	\$25.12	\$26.38	Hourly
Lead Equipment Mechanic	\$38,743.33	\$40,680.50	\$42,714.52	\$44,850.25	\$47,092.76	\$49,447.40	\$51,919.77	\$54,515.76	Annual
Lead PW Operator	\$3,228.61	\$3,390.04	\$3,559.54	\$3,737.52	\$3,924.40	\$4,120.62	\$4,326.65	\$4,542.98	Monthly
Lead Tree Worker	\$18.63	\$19.56	\$20.54	\$21.56	\$22.64	\$23.77	\$24.96	\$26.21	Hourly
Assistant City Clerk	\$37,937.43	\$39,834.30	\$41,826.02	\$43,917.32	\$46,113.18	\$48,418.84	\$50,839.78	\$53,381.77	Annual
	\$3,161.45	\$3,319.53	\$3,485.50	\$3,659.78	\$3,842.77	\$4,034.90	\$4,236.65	\$4,448.48	Monthly
	\$18.24	\$19.15	\$20.11	\$21.11	\$22.17	\$23.28	\$24.44	\$25.66	Hourly
Counter Technician	\$36,441.83	\$38,263.92	\$40,177.12	\$42,185.97	\$44,295.27	\$46,510.04	\$48,835.54	\$51,277.31	Annual
	\$3,036.82	\$3,188.66	\$3,348.09	\$3,515.50	\$3,691.27	\$3,875.84	\$4,069.63	\$4,273.11	Monthly
	\$17.52	\$18.40	\$19.32	\$20.28	\$21.30	\$22.36	\$23.48	\$24.65	Hourly
Public Works Operator III	\$35,132.00	\$36,888.60	\$38,733.03	\$40,669.68	\$42,703.17	\$44,838.32	\$47,080.24	\$49,434.25	Annual
	\$2,927.67	\$3,074.05	\$3,227.75	\$3,389.14	\$3,558.60	\$3,736.53	\$3,923.35	\$4,119.52	Monthly
	\$16.89	\$17.73	\$18.62	\$19.55	\$20.53	\$21.56	\$22.63	\$23.77	Hourly
Equipment Mechanic	\$34,305.33	\$36,020.60	\$37,821.63	\$39,712.71	\$41,698.34	\$43,783.26	\$45,972.42	\$48,271.04	Annual
	\$2,858.78	\$3,001.72	\$3,151.80	\$3,309.39	\$3,474.86	\$3,648.61	\$3,831.04	\$4,022.59	Monthly
	\$16.49	\$17.32	\$18.18	\$19.09	\$20.05	\$21.05	\$22.10	\$23.21	Hourly
Code Enforcement Tech	\$34,039.80	\$35,741.79	\$37,528.88	\$39,405.32	\$41,375.59	\$43,444.37	\$45,616.59	\$47,897.42	Annual
	\$2,836.65	\$2,978.48	\$3,127.41	\$3,283.78	\$3,447.97	\$3,620.36	\$3,801.38	\$3,991.45	Monthly
	\$16.37	\$17.18	\$18.04	\$18.94	\$19.89	\$20.89	\$21.93	\$23.03	Hourly
Accountant	\$35,053.41	\$36,806.08	\$38,646.38	\$40,578.70	\$42,607.64	\$44,738.02	\$46,974.92	\$49,323.67	Annual
	\$2,921.12	\$3,067.17	\$3,220.53	\$3,381.56	\$3,550.64	\$3,728.17	\$3,914.58	\$4,110.31	Monthly
	\$16.85	\$17.70	\$18.58	\$19.51	\$20.48	\$21.51	\$22.58	\$23.71	Hourly

Public Works Operator II	\$33,477.26	\$35,151.12	\$36,908.68	\$38,754.11	\$40,691.82	\$42,726.41	\$44,862.73	\$47,105.87	Annual
Parks Maint. Technician II	\$2,789.77	\$2,929.26	\$3,075.72	\$3,229.51	\$3,390.98	\$3,560.53	\$3,738.56	\$3,925.49	Monthly
Building Maint. Tech II	\$16.09	\$16.90	\$17.74	\$18.63	\$19.56	\$20.54	\$21.57	\$22.65	Hourly
Administrative Assistant	\$34,488.58	\$36,213.01	\$38,023.66	\$39,924.84	\$41,921.08	\$44,017.14	\$46,218.00	\$48,528.90	Annual
	\$2,874.05	\$3,017.75	\$3,168.64	\$3,327.07	\$3,493.42	\$3,668.09	\$3,851.50	\$4,044.07	Monthly
	\$16.58	\$17.41	\$18.28	\$19.19	\$20.15	\$21.16	\$22.22	\$23.33	Hourly
Accounting Technician	\$33,384.22	\$35,053.43	\$36,806.10	\$38,646.41	\$40,578.73	\$42,607.66	\$44,738.05	\$46,974.95	Annual
	\$2,782.02	\$2,921.12	\$3,067.18	\$3,220.53	\$3,381.56	\$3,550.64	\$3,728.17	\$3,914.58	Monthly
	\$16.05	\$16.85	\$17.70	\$18.58	\$19.51	\$20.48	\$21.51	\$22.58	Hourly
Public Works Operator I	\$31,144.57	\$32,701.80	\$34,336.89	\$36,053.73	\$37,856.42	\$39,749.24	\$41,736.70	\$43,823.54	Annual
Parks Maint. Technician I	\$2,595.38	\$2,725.15	\$2,861.41	\$3,004.48	\$3,154.70	\$3,312.44	\$3,478.06	\$3,651.96	Monthly
	\$14.97	\$15.72	\$16.51	\$17.33	\$18.20	\$19.11	\$20.07	\$21.07	Hourly
Staff Assistant	\$27,882.81	\$29,276.95	\$30,740.80	\$32,277.84	\$33,891.73	\$35,586.32	\$37,365.63	\$39,233.91	Annual
	\$2,323.57	\$2,439.75	\$2,561.73	\$2,689.82	\$2,824.31	\$2,965.53	\$3,113.80	\$3,269.49	Monthly
	\$13.41	\$14.08	\$14.78	\$15.52	\$16.29	\$17.11	\$17.96	\$18.86	Hourly
Parks Maint. Technician I	\$24,960.00	\$26,208.00	\$27,518.40	\$28,894.32	\$30,339.04	\$31,855.99	\$33,448.79	\$35,121.23	Annual
	\$2,080.00	\$2,184.00	\$2,293.20	\$2,407.86	\$2,528.25	\$2,654.67	\$2,787.40	\$2,926.77	Monthly
	\$12.00000	\$12.60000	\$13.23000	\$13.89150	\$14.58608	\$15.31538	\$16.08115	\$16.88521	Hourly

Item 2.

2ND TIER OROVILLE CITY EMPLOYEE'S ASSOCIATION SALARY SCHEDULE																
CLASSIFICATION:	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	STEP H	STEP I	STEP J	STEP K	STEP L	STEP M	STEP N	STEP O	
Associate Civil Engr.	\$70,150.83	\$71,904.60	\$73,658.37	\$75,499.83	\$77,341.29	\$79,274.82	\$81,208.35	\$83,238.56	\$85,268.77	\$87,400.49	\$89,532.21	\$91,770.52	\$94,008.82	\$96,359.04	\$98,709.26	Annual
	\$5,845.90	\$5,992.05	\$6,138.20	\$6,291.65	\$6,445.11	\$6,606.24	\$6,767.36	\$6,936.55	\$7,105.73	\$7,283.37	\$7,461.02	\$7,647.54	\$7,834.07	\$8,029.92	\$8,225.77	Monthly
	\$33.72636	\$34.56952	\$35.41268	\$36.29800	\$37.18331	\$38.11290	\$39.04248	\$40.01854	\$40.99460	\$42.01947	\$43.04433	\$44.12044	\$45.19655	\$46.32646	\$47.45638	Hourly
Associate Planner	\$54,230.40	\$55,586.16	\$56,941.92	\$58,365.47	\$59,789.02	\$61,283.74	\$62,778.47	\$64,347.93	\$65,917.39	\$67,565.32	\$69,213.26	\$70,943.59	\$72,673.92	\$74,490.77	\$76,307.62	Annual
	\$4,519.20	\$4,632.18	\$4,745.16	\$4,863.79	\$4,982.42	\$5,106.98	\$5,231.54	\$5,362.33	\$5,493.12	\$5,630.44	\$5,767.77	\$5,911.97	\$6,056.16	\$6,207.56	\$6,358.97	Monthly
	\$26.07231	\$26.72412	\$27.37592	\$28.06032	\$28.74472	\$29.46334	\$30.18196	\$30.93650	\$31.69105	\$32.48333	\$33.27561	\$34.10750	\$34.93939	\$35.81287	\$36.68636	Hourly
Sr. Code Comp Specialist	\$53,891.78	\$55,239.07	\$56,586.37	\$58,001.03	\$59,415.69	\$60,901.08	\$62,386.47	\$63,946.13	\$65,505.80	\$67,143.44	\$68,781.09	\$70,500.61	\$72,220.14	\$74,025.64	\$75,831.15	Annual
	\$4,490.98	\$4,603.26	\$4,715.53	\$4,833.42	\$4,951.31	\$5,075.09	\$5,198.87	\$5,328.84	\$5,458.82	\$5,595.29	\$5,731.76	\$5,875.05	\$6,018.34	\$6,168.80	\$6,319.26	Monthly
	\$25.90951	\$26.55725	\$27.20499	\$27.88511	\$28.56523	\$29.27937	\$29.99350	\$30.74333	\$31.49317	\$32.28050	\$33.06783	\$33.89453	\$34.72122	\$35.58925	\$36.45728	Hourly
GIS Specialist	\$53,626.88	\$54,967.55	\$56,308.22	\$57,715.93	\$59,123.64	\$60,601.73	\$62,079.82	\$63,631.81	\$65,183.81	\$66,813.40	\$68,443.00	\$70,154.07	\$71,865.15	\$73,661.78	\$75,458.41	Annual
	\$4,468.91	\$4,580.63	\$4,692.35	\$4,809.66	\$4,926.97	\$5,050.14	\$5,173.32	\$5,302.65	\$5,431.98	\$5,567.78	\$5,703.58	\$5,846.17	\$5,988.76	\$6,138.48	\$6,288.20	Monthly
	\$25.78215	\$26.42671	\$27.07126	\$27.74804	\$28.42482	\$29.13545	\$29.84607	\$30.59222	\$31.33837	\$32.12183	\$32.90529	\$33.72792	\$34.55055	\$35.41432	\$36.27808	Hourly
Assistant Planner	\$49,930.36	\$51,178.62	\$52,426.88	\$53,737.55	\$55,048.22	\$56,424.43	\$57,800.63	\$59,245.65	\$60,690.66	\$62,207.93	\$63,725.20	\$65,318.33	\$66,911.46	\$68,584.24	\$70,257.03	Annual
	\$4,160.86	\$4,264.88	\$4,368.91	\$4,478.13	\$4,587.35	\$4,702.04	\$4,816.72	\$4,937.14	\$5,057.56	\$5,183.99	\$5,310.43	\$5,443.19	\$5,575.95	\$5,715.35	\$5,854.75	Monthly
	\$24.00498	\$24.60511	\$25.20523	\$25.83536	\$26.46549	\$27.12713	\$27.78877	\$28.48349	\$29.17820	\$29.90766	\$30.63711	\$31.40304	\$32.16897	\$32.97319	\$33.77742	Hourly
Signal Tech/Electrician	\$48,345.35	\$49,553.98	\$50,762.62	\$52,031.68	\$53,300.75	\$54,633.27	\$55,965.79	\$57,364.93	\$58,764.08	\$60,233.18	\$61,702.28	\$63,244.84	\$64,787.39	\$66,407.08	\$68,026.76	Annual
	\$4,028.78	\$4,129.50	\$4,230.22	\$4,335.97	\$4,441.73	\$4,552.77	\$4,663.82	\$4,780.41	\$4,897.01	\$5,019.43	\$5,141.86	\$5,270.40	\$5,398.95	\$5,533.92	\$5,668.90	Monthly
	\$23.24296	\$23.82403	\$24.40510	\$25.01523	\$25.62536	\$26.26599	\$26.90663	\$27.57929	\$28.25196	\$28.95826	\$29.66456	\$30.40617	\$31.14778	\$31.92648	\$32.70517	Hourly
Code Enfor Specialist	\$44,336.91	\$45,445.33	\$46,553.76	\$47,717.60	\$48,881.44	\$50,103.48	\$51,325.52	\$52,608.65	\$53,891.79	\$55,239.09	\$56,586.38	\$58,001.04	\$59,415.70	\$60,901.09	\$62,386.48	Annual
	\$3,694.74	\$3,787.11	\$3,879.48	\$3,976.47	\$4,073.45	\$4,175.29	\$4,277.13	\$4,384.05	\$4,490.98	\$4,603.26	\$4,715.53	\$4,833.42	\$4,951.31	\$5,075.09	\$5,198.87	Monthly
	\$21.31582	\$21.84872	\$22.38161	\$22.94115	\$23.50069	\$24.08821	\$24.67573	\$25.29262	\$25.90952	\$26.55725	\$27.20499	\$27.88512	\$28.56524	\$29.27937	\$29.99350	Hourly
Admin/Program Analyst II	\$43,762.61	\$44,856.68	\$45,950.74	\$47,099.51	\$48,248.28	\$49,454.48	\$50,660.69	\$51,927.21	\$53,193.73	\$54,523.57	\$55,853.41	\$57,249.75	\$58,646.08	\$60,112.23	\$61,578.39	Annual
	\$3,646.88	\$3,738.06	\$3,829.23	\$3,924.96	\$4,020.69	\$4,121.21	\$4,221.72	\$4,327.27	\$4,432.81	\$4,543.63	\$4,654.45	\$4,770.81	\$4,887.17	\$5,009.35	\$5,131.53	Monthly
	\$21.03972	\$21.56571	\$22.09170	\$22.64399	\$23.19629	\$23.77619	\$24.35610	\$24.96500	\$25.57391	\$26.21325	\$26.85260	\$27.52392	\$28.19523	\$28.90011	\$29.60499	Hourly
Building/Fire Inspector	\$42,895.00	\$43,967.38	\$45,039.75	\$46,165.74	\$47,291.74	\$48,474.03	\$49,656.32	\$50,897.73	\$52,139.14	\$53,442.62	\$54,746.10	\$56,114.75	\$57,483.40	\$58,920.49	\$60,357.57	Annual
Code & Cons Compl Spec.	\$3,574.58	\$3,663.95	\$3,753.31	\$3,847.15	\$3,940.98	\$4,039.50	\$4,138.03	\$4,241.48	\$4,344.93	\$4,453.55	\$4,562.17	\$4,676.23	\$4,790.28	\$4,910.04	\$5,029.80	Monthly
Construction Inspector	\$20,62260	\$21.13816	\$21.65373	\$22.19507	\$22.73641	\$23.30482	\$23.87323	\$24.47006	\$25.06689	\$25.69357	\$26.32024	\$26.97825	\$27.63625	\$28.32716	\$29.01806	Hourly
Sr. Accountant Technician	\$40,578.77	\$41,593.24	\$42,607.71	\$43,672.90	\$44,738.09	\$45,856.55	\$46,975.00	\$48,149.37	\$49,323.75	\$50,556.84	\$51,789.94	\$53,084.68	\$54,379.43	\$55,738.92	\$57,098.40	Annual
	\$3,381.56	\$3,466.10	\$3,550.64	\$3,639.41	\$3,728.17	\$3,821.38	\$3,914.58	\$4,012.45	\$4,110.31	\$4,213.07	\$4,315.83	\$4,423.72	\$4,531.62	\$4,644.91	\$4,758.20	Monthly
	\$19.50902	\$19.99675	\$20.48448	\$20.99659	\$21.50870	\$22.04642	\$22.58413	\$23.14874	\$23.71334	\$24.30617	\$24.89901	\$25.52148	\$26.14396	\$26.79756	\$27.45116	Hourly
Program Analyst I	\$38,994.09	\$39,968.94	\$40,943.79	\$41,967.39	\$42,990.98	\$44,065.76	\$45,140.53	\$46,269.05	\$47,397.56	\$48,582.50	\$49,767.44	\$51,011.62	\$52,255.81	\$53,562.21	\$54,868.60	Annual

	\$3,249.51	\$3,330.75	\$3,411.98	\$3,497.28	\$3,582.58	\$3,672.15	\$3,761.71	\$3,855.75	\$3,949.80	\$4,048.54	\$4,147.29	\$4,250.97	\$4,354.65	\$4,463.52	\$4,572.38	Monthly
	\$18,74716	\$19,21584	\$19,68452	\$20,17663	\$20,66874	\$21,18546	\$21,70218	\$22,24473	\$22,78729	\$23,35697	\$23,92665	\$24,52482	\$25,12299	\$25,75106	\$26,37106	
Lead Equipment Mechanic	\$38,743.33	\$39,711.91	\$40,680.50	\$41,697.51	\$42,714.52	\$43,782.38	\$44,850.25	\$45,971.50	\$47,092.76	\$48,270.08	\$49,447.40	\$50,683.58	\$51,919.77	\$53,217.76	\$54,511.91	Item 2. Annual
Lead PW Operator	\$3,228.61	\$3,309.33	\$3,390.04	\$3,474.79	\$3,559.54	\$3,648.53	\$3,737.52	\$3,830.96	\$3,924.40	\$4,022.51	\$4,120.62	\$4,223.63	\$4,326.65	\$4,434.81	\$4,542.96	Monthly
Lead Tree Worker	\$18,62660	\$19,09227	\$19,55793	\$20,04688	\$20,53583	\$21,04922	\$21,56262	\$22,10168	\$22,64075	\$23,20677	\$23,77279	\$24,36711	\$24,96143	\$25,58546	\$26,20950	Hourly
Assistant City Clerk	\$37,937.43	\$38,885.87	\$39,834.30	\$40,830.16	\$41,826.02	\$42,871.67	\$43,917.32	\$45,015.25	\$46,113.18	\$47,266.01	\$48,418.84	\$49,629.31	\$50,839.78	\$52,110.78	\$53,381.77	Annual
	\$3,161.45	\$3,240.49	\$3,319.53	\$3,402.51	\$3,485.50	\$3,572.64	\$3,659.78	\$3,751.27	\$3,842.77	\$3,938.83	\$4,034.90	\$4,135.78	\$4,236.65	\$4,342.56	\$4,448.48	Monthly
	\$18,23915	\$18,69513	\$19,15111	\$19,62988	\$20,10866	\$20,61138	\$21,11409	\$21,64195	\$22,16980	\$22,72404	\$23,27829	\$23,86025	\$24,44220	\$25,05326	\$25,66431	Hourly
Counter Technician	\$36,441.83	\$37,352.88	\$38,263.92	\$39,220.52	\$40,177.12	\$41,181.55	\$42,185.97	\$43,240.62	\$44,295.27	\$45,402.65	\$46,510.04	\$47,672.79	\$48,835.54	\$50,056.43	\$51,277.31	Annual
	\$3,036.82	\$3,112.74	\$3,188.66	\$3,268.38	\$3,348.09	\$3,431.80	\$3,515.50	\$3,603.39	\$3,691.27	\$3,783.55	\$3,875.84	\$3,972.73	\$4,069.63	\$4,171.37	\$4,273.11	Monthly
	\$17,52011	\$17,95811	\$18,39612	\$18,85602	\$19,31592	\$19,79882	\$20,28172	\$20,78876	\$21,29580	\$21,82820	\$22,36059	\$22,91961	\$23,47862	\$24,06559	\$24,65255	Hourly
Public Works Operator III	\$35,132.00	\$36,010.30	\$36,888.60	\$37,810.82	\$38,733.03	\$39,701.36	\$40,669.68	\$41,686.42	\$42,703.17	\$43,770.74	\$44,838.32	\$45,959.28	\$47,080.24	\$48,257.25	\$49,434.25	Annual
	\$2,927.67	\$3,000.86	\$3,074.05	\$3,150.90	\$3,227.75	\$3,308.45	\$3,389.14	\$3,473.87	\$3,558.60	\$3,647.56	\$3,736.53	\$3,829.94	\$3,923.35	\$4,021.44	\$4,119.52	Monthly
	\$16,89038	\$17,31264	\$17,73490	\$18,17828	\$18,62165	\$19,08719	\$19,55273	\$20,04155	\$20,53037	\$21,04363	\$21,55689	\$22,09581	\$22,63473	\$23,20060	\$23,76647	Hourly
Equipment Mechanic	\$34,305.33	\$35,162.96	\$36,020.60	\$36,921.11	\$37,821.63	\$38,767.17	\$39,712.71	\$40,705.53	\$41,698.34	\$42,740.80	\$43,783.26	\$44,877.84	\$45,972.42	\$47,121.73	\$48,271.04	Annual
	\$2,858.78	\$2,930.25	\$3,001.72	\$3,076.76	\$3,151.80	\$3,230.60	\$3,309.39	\$3,392.13	\$3,474.86	\$3,561.73	\$3,648.61	\$3,739.82	\$3,831.04	\$3,926.81	\$4,022.59	Monthly
	\$16,49295	\$16,90527	\$17,31759	\$17,75053	\$18,18347	\$18,63806	\$19,09265	\$19,56996	\$20,04728	\$20,54846	\$21,04964	\$21,57589	\$22,10213	\$22,65468	\$23,20723	Hourly
Accountant	\$35,053.41	\$35,929.75	\$36,806.08	\$37,726.23	\$38,646.38	\$39,612.54	\$40,578.70	\$41,593.17	\$42,607.64	\$43,672.83	\$44,738.02	\$45,856.47	\$46,974.92	\$48,149.29	\$49,323.67	Annual
	\$2,921.12	\$2,994.15	\$3,067.17	\$3,143.85	\$3,220.53	\$3,301.05	\$3,381.56	\$3,466.10	\$3,550.64	\$3,639.40	\$3,728.17	\$3,821.37	\$3,914.58	\$4,012.44	\$4,110.31	Monthly
	\$16,85260	\$17,27392	\$17,69523	\$18,13761	\$18,57999	\$19,04449	\$19,50899	\$19,99672	\$20,48444	\$20,99655	\$21,50866	\$22,04638	\$22,58410	\$23,14870	\$23,71330	Hourly
Public Works Operator II	\$33,477.26	\$34,314.19	\$35,151.12	\$36,029.90	\$36,908.68	\$37,831.40	\$38,754.11	\$39,722.97	\$40,691.82	\$41,709.11	\$42,726.41	\$43,794.57	\$44,862.73	\$45,984.30	\$47,105.87	Annual
Parks Maint. Technician II	\$2,789.77	\$2,859.52	\$2,929.26	\$3,002.49	\$3,075.72	\$3,152.62	\$3,229.51	\$3,310.25	\$3,390.98	\$3,475.76	\$3,560.53	\$3,649.55	\$3,738.56	\$3,832.02	\$3,925.49	Monthly
Building Maint. Tech II	\$16,09484	\$16,49721	\$16,89958	\$17,32207	\$17,74456	\$18,18817	\$18,63179	\$19,09758	\$19,56337	\$20,05246	\$20,54154	\$21,05508	\$21,56862	\$22,10784	\$22,64705	Hourly
Administrative Assistant	\$34,488.58	\$35,350.79	\$36,213.01	\$37,118.33	\$38,023.66	\$38,974.25	\$39,924.84	\$40,922.96	\$41,921.08	\$42,969.11	\$44,017.14	\$45,117.57	\$46,218.00	\$47,373.45	\$48,528.90	Annual
	\$2,874.05	\$2,945.90	\$3,017.75	\$3,093.19	\$3,168.64	\$3,247.85	\$3,327.07	\$3,410.25	\$3,493.42	\$3,580.76	\$3,668.09	\$3,759.80	\$3,851.50	\$3,947.79	\$4,044.07	Monthly
	\$16,58105	\$16,99557	\$17,41010	\$17,84535	\$18,28061	\$18,73762	\$19,19464	\$19,67450	\$20,15437	\$20,65823	\$21,16209	\$21,69114	\$22,22019	\$22,77570	\$23,33120	Hourly
Accounting Technician	\$33,384.22	\$34,218.83	\$35,053.43	\$35,929.77	\$36,806.10	\$37,726.26	\$38,646.41	\$39,612.57	\$40,578.73	\$41,593.20	\$42,607.66	\$43,672.86	\$44,738.05	\$45,856.50	\$46,974.95	Annual
	\$2,782.02	\$2,851.57	\$2,921.12	\$2,994.15	\$3,067.18	\$3,143.85	\$3,220.53	\$3,301.05	\$3,381.56	\$3,466.10	\$3,550.64	\$3,639.40	\$3,728.17	\$3,821.37	\$3,914.58	Monthly
	\$16,05011	\$16,45136	\$16,85261	\$17,27393	\$17,69524	\$18,13762	\$18,58000	\$19,04450	\$19,50900	\$19,99673	\$20,48445	\$20,99657	\$21,50868	\$22,04639	\$22,58411	Hourly
Public Works Operator I	\$31,144.57	\$31,923.18	\$32,701.80	\$33,519.34	\$34,336.89	\$35,195.31	\$36,053.73	\$36,955.08	\$37,856.42	\$38,802.83	\$39,749.24	\$40,742.97	\$41,736.70	\$42,780.12	\$43,823.54	Annual
Parks Maint. Technician I	\$2,595.38	\$2,660.27	\$2,725.15	\$2,793.28	\$2,861.41	\$2,932.94	\$3,004.48	\$3,079.59	\$3,154.70	\$3,233.57	\$3,312.44	\$3,395.25	\$3,478.06	\$3,565.01	\$3,651.96	Monthly
	\$14,97335	\$15,34768	\$15,72202	\$16,11507	\$16,50812	\$16,92082	\$17,33353	\$17,76686	\$18,20020	\$18,65521	\$19,11021	\$19,58797	\$20,06572	\$20,56737	\$21,06901	Hourly
Staff Assistant	\$27,882.81	\$28,579.88	\$29,276.95	\$30,008.87	\$30,740.80	\$31,509.32	\$32,277.84	\$33,084.78	\$33,891.73	\$34,739.02	\$35,586.32	\$36,475.97	\$37,365.63	\$38,299.77	\$39,233.91	Annual
	\$2,323.57	\$2,381.66	\$2,439.75	\$2,500.74	\$2,561.73	\$2,625.78	\$2,689.82	\$2,757.07	\$2,824.31	\$2,894.92	\$2,965.53	\$3,039.66	\$3,113.80	\$3,191.65	\$3,269.49	Monthly
	\$13,40520	\$13,74033	\$14,07546	\$14,42734	\$14,77923	\$15,14871	\$15,51819	\$15,90615	\$16,29410	\$16,70145	\$17,10881	\$17,53653	\$17,96425	\$18,41335	\$18,86246	Hourly
	FROZEN POSITIONS															

Revisions:

- 01/01/2019 Increase in Minimum Wage for Park Tech I
- 07/01/18 2% COLA OFFA Based on Section 6.3 of MOU
- 07/01/19 4% COLA OPOA Sworn & Non-Sworn per Res. No. 8778 & 8779
- 07/01/19 Budget changes for classification of Park Tech I moves to PW Ops I range; Park Tech III - Tree Lead Worker at Lead Equip Mechanic range; PW Ops III - PW Ops Lead at Lead Equip Mechanic range
- 07/01/19 Add Code Enforcement Technician per budget
- 07/01/19 Add Project Manager/Sr. Civil Engineer per budget
- 07/01/19 Unfroze Admin/Program Analyst II per budget
- 07/01/19 Unfroze Program Analyst I per budget
- 07/01/19 Mayor, City Council & Treasurer received 10% cutback returned per budget
- 07/16/19 Side Letter Agreement to Add Police Lt. to OMCA
- 07/16/19 Established new salary range for City Administrator per Mayor Appt. on 07/16/19
- 09/17/19 Change in job Title and salary range for dept heads per Resolution #8815

ASSISTANT CITY ADMINISTRATOR

DEFINITION

Subject to the provisions of the City Municipal Code and applicable policies and procedures, to serve as Assistant Chief Administrative Officer; to administer the provisions of various State laws; to be responsible for human resources, labor relations, purchasing and risk management functions of the City.

SUPERVISION RECEIVED AND EXERCISED

Receives policy direction from the Mayor and City Council. Works under the direct supervisor of the City Administer

EXAMPLES OF ESSENTIAL FUNCTIONS - *Essential functions may include, but are not limited to, the following:*

Assistant City Administrator Duties:

Assistant City Administrator: Development Services Department

Community Development, Engineering, Public Works, Parks and Trees, Streets, Sewer and Airport

Assistant City Administrator: Administration Department

Finance, Housing, Human Resources, Supplemental Benefit Fund, Assistant City Clerk

Assistant City Administrator: Public Safety Department

Fire, Police and Code Enforcement (Code Enforcement will be shared responsibility with Development Services)

Directs and participates in the development and implementation of goals, objectives, policies and procedures related to the overall administrative activities and operations of the City.

Assist in guiding the organizational development of the City in response to City growth and changing requirements and expectations of citizens.

Within City policy, recommends appropriate service and staffing levels; allocates resources accordingly.

Selects, supervises, motivates and evaluates the performance of division managers; implements disciplinary action.

Directs and supervises City offices, departments and agencies; assigns special projects to department and division managers; confers with department and division managers concerning administrative and operational problems; develops appropriate decisions or recommendations.

Provides administrative oversight of, human resources, labor relations, purchasing and risk management functions of the City.

Assist in preparing, submitting for approval, and administering the annual budget and capital improvement programs.

Evaluates and makes recommendation for labor organization contracts.

Responds to the most difficult or sensitive complaints and requests for information.

Represents the City at private and public sector meetings and events.

Gives presentations to various agencies, civic and community groups to discuss issues of relevance to City operations.

Coordinates City activities with other governmental agencies and outside organizations as appropriate.

Select, supervise, train and evaluate assigned staff.

Perform related assignments as necessary.

MINIMUM QUALIFICATIONS

Assistant City Administrator:

Knowledge of:

Pertinent federal, state and local laws, codes, ordinances and regulations.

Modern municipal organization, functions and procedures.

Current social, political and economic trends and operating problems of municipal government.

Personnel administration policies, procedures and regulations, including those related to public agency labor negotiations.

Principles of supervision, training and performance evaluation.

Modern office practices and technology, including the use of computers for word and data processing.

Public / community relations techniques.

Ability to:

Interpret, analyze, apply and enforce pertinent federal, state and local laws, rules and regulations.

Provide effective leadership and coordinate the staff, programs and activities of a full-service municipal organization.

Perform duties under the pressure of very high expectations for exemplary leadership, management and professionalism.

Gain cooperation through discussion and persuasion.

Analyze problems, identify alternative solutions, determine consequences of proposed action, and make and implement recommendations in support of goals.

Analyze, interpret, summarize and present administrative and technical information and data in an effective manner.

Assist in preparing and administering a budget in conformance with sound financial management techniques.

Speak effectively in public.

Establish and maintain effective working relationships with those contacted in the course of work.

React professionally at all times, dealing with sensitive, political or controversial situations with tact and diplomacy.

Provide information, make decisions, and organize material in compliance with laws, regulations and policies.

Meet the public, understand their questions, and provide information.

Communicate clearly and concisely, both orally and in writing.

Select, supervise, train, and evaluate assigned staff.

Experience:

Three years of increasingly responsible professional experience in a significant management capacity in local government, preferably as a Department Manager or in a senior management staff position.

Education:

Graduation from an accredited college or university with a bachelor's degree in business or public administration, or related field.

Additional Requirements:

Possession of a valid California driver's license.

Specific knowledge applicable to area of assignment

Ability to be bonded.

TYPICAL WORKING CONDITIONS

Work is performed in a normal office environment.

TYPICAL PHYSICAL REQUIREMENTS

Requires the ability to sit at desk for long periods of time and intermittently walk, stand, stoop, kneel, crouch and reach while performing office duties; lift and/or move light weights; use hands to finger, handle or feel objects, tools, or controls. Must be able to maintain effective audio-visual discrimination and perception needed for making observations, communicating with others, reading and writing, and operating office equipment. Must be able to use a telephone to communicate verbally and a keyboard to communicate through written means, to review information and enter/retrieve data, to see and read characters on a computer screen.

This class specification lists the major duties and requirements of the job and is not all-inclusive. Incumbents may be expected to perform job-related duties other than those contained in this document.



CITY OF OROVILLE STAFF REPORT

TO: MAYOR AND CITY COUNCIL MEMBERS

FROM: MIKE MASSARO, CONTRACT CITY ENGINEER, PUBLIC WORKS DEPARTMENT

RE: 2019 PAVEMENT REHABILITATION PROJECT – SELECTION OF CONTRACTOR

DATE: OCTOBER 1, 2019

SUMMARY

The Council may consider approving the bids and awarding a contract to Lamon Construction to construction the 2019 Pavement Rehabilitation Project.

DISCUSSION

Plans and specifications were issued for bid on August 19, 2019 and bids were received on September 17, 2019.

The low bidder was Lamon Construction at \$993,969.50. The engineer's estimate was \$1,300,000 with contingencies. Staff recommends carrying a 10% contingency on the low bid for field changes and adjustments due to the nature of pavement rehabilitation and utility clearances.

This project utilizes funds from the State's Regional Surface Transportation Program (RSTP), and Transportation Development Act (TDA) funds allocated to the City of Oroville via the Butte County Association of Governments (BCAG), Highway User's Tax Account (HUTA) allocated to the City from the State of California, and SB1 Funding allocated from the California Transportation Commission. The project is budgeted adequately to cover the cost of the construction of the project.

FISCAL IMPACT

Expend \$1,094,000 with Lamon Construction. \$2,400,000 was appropriated in the 2019-20 Budget for road rehabilitation.

RECOMMENDATION

Staff recommends awarding a contract to Lamon Construction for \$993,969.50.

ATTACHMENTS

Bid Summary and Contract

2019 Pavement Rehabilitation Project Bid Results		
Bid Rank		
1	Lamon Construction Co, Inc	\$ 993,969.50
2	All American Construction, Inc.	\$ 1,054,950.00
3	Knife River Construction	\$ 1,151,455.00
4	Franklin Construction	\$ 1,254,460.00
5	Northwest Paving	\$ 1,354,123.00
	Engineer's Estimate	\$1,270,200.00

THIS PROJECT CONTRACT (the “contract” or “Contract”), is made and entered into this 1st day of October, 2019, by and between City of Oroville (referred to herein as the “Owner” or the “City”) and Lamon Construction Company, Inc. (the “Contractor”).

WITNESSETH: That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other as follows:

1. THE CONTRACT DOCUMENTS.

The complete contract is comprised of and may or may not include: Invitation for Bids; Information for Bidders; Bid Schedule; Proposal Form; Bidder’s Bond; Contract; General Conditions; Special Provisions; Technical Provisions; Payment Bond; Performance Bond; Notice of Award; Notice to Proceed; Change Orders; Supplemental Drawings Issued; Drawings; Specifications and Contract Documents; All addenda or bulletins issued during the time of bidding or forming a part of the documents loaned to the bidder for preparation of the bid; The complete plans and provisions, regulations, ordinances, codes, and laws incorporated therein or herein by reference or otherwise applicable to the Project.

All of the above documents are intended to cooperate so that any work called for in one and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all said documents. The documents comprising the complete contract are hereinafter referred to collectively as the Contract Documents.

2. THE WORK.

Contractor agrees to furnish all tools, apparatus, facilities, equipment, labor and materials (except that specifically mentioned as being furnished by others) necessary to perform and complete the work in a “good and workmanlike manner” as called for, and in the manner designated in, and in strict conformity with the Plans, Detail Specifications, and other Contract Documents which are identified by the signatures of the parties to this Contract and are, collectively, entitled:

2019 OROVILLE PAVEMENT REHABILITATION PROJECT

3. CONTRACT PRICE.

The City agrees to pay and the Contractor agrees to accept, in full payment for the work above agreed to be done, the following compensation: \$993,969.50. In no event shall Contractor’s compensation exceed the amount of \$993,969.50 without additional written authorization from the City. Payment by City under this Agreement shall not be deemed a waiver of defects in Consultant’s services, even if such defects were known to the City at the time of payment

For the purpose of fixing the amount of bonds referred to in the Instructions to Bidders, it is estimated by both Parties that the total contract price shall be based on the Contractor’s Base Bid amount.

4. DISPUTES PERTAINING TO PAYMENT FOR WORK.

Should any dispute arise respecting the true value of any work done or any work omitted, or of any extra work which the Contractor may be required to do, or respecting the size of any payment to the Contractor during the performance of this Contract, the dispute shall be informally mediated between the parties. Following such mediation, either party may file an action exclusively in the Butte County Superior Court or in the United States District Court, Eastern District of California. Under no condition shall there be a cessation of work by the Contractor during any such dispute. This article does not exclude recovery damages by either party for delays.

5. PAYMENT.

Item 3.

Not later than the 20th day of each calendar month, the Contractor shall make a partial payment request to the City on the basis of an estimate approved by the Engineer of the work performed since the last partial payment request during the preceding month by the Contractor with five percent (5%) of the amount of each such estimate retained by the City, until completion of the Project and the recordation of a Notice of Completion of all work covered by this Contract. The City shall make any partial payments provided for in this contract to the Contractor within 30 days of the City's receipt of an undisputed and properly executed partial payment request from the Contractor. The City shall pay the Contractor interest on the amount of any portion of a partial payment, excluding retention amounts, not made to the Contractor within 30 days of the City's receipt of an undisputed and properly executed partial payment request from the Contractor at the legal rate set forth in California Code of Civil Procedure Section 685.010. Upon receipt of a partial payment request from the Contractor, the City shall review the partial payment request for the purpose of determining whether or not the partial payment request is a proper partial payment request. Any partial payment request determined by the City not to be a proper partial payment request suitable for payment shall be returned to the Contractor by the City within 14 days of the City's receipt of such partial payment request. A partial payment request returned to the Contractor by the City under the provisions of this section shall be accompanied by a written document setting forth the reason(s) why the partial payment request is not proper. The number of days for the City to make a certain partial payment provided for in this Contract, without incurring interest pursuant to this section, shall be reduced by the number of days by which the City exceeds the 14 day return period for such partial payment request, if determined to be improper, as set forth in this section. For the purposes of this section, a "partial payment" means all payments due to the Contractor under this contract, exclusive of that portion of the final payment designated as retention earnings. Also, for the purposes of this section, a partial payment request shall be considered properly executed by the City, if funds are available to pay the partial payment request and payment is not delayed due to an audit inquiry by the City's financial officer. The City will release Contractor's retention earnings within 45 days after recordation of Notice of Completion, as defined in California Civil Code Section 3093. Recordation of a Notice of Completion for the Project by the City shall constitute the City's acceptance of the Project work.

6. TIME FOR COMPLETION.

All work under this contract shall be completed within a period of 45 working days from the date of the Contractor's receipt of a Notice to Proceed from the City.

7. EXTENSION OF TIME.

If the Contractor is delayed by acts of negligence of the City, or its employees or those under it by contract or otherwise, or by changes ordered in the work, or by strikes, lockouts, fire, unavoidable casualties, or any causes beyond the Contractor's control, or by delay authorized by the City, or by any justifiable cause which the Engineer shall authorize, then the Contractor shall make out a written claim addressed to the City setting forth the reason for the delay and the extension of the time requested and forward a copy of the claim to the Engineer for approval. The Engineer will evaluate the claim and if the claim is justifiable, will request the City's approval. No such extension will be allowed unless written claim therefore has been made within 3 days after the delay became apparent.

If the Contractor fails or refuses to complete the work within the time specified, including authorized extensions, there shall be deducted from monies due the Contractor, not as a penalty, but as liquidated damages the sum of Three Thousand Dollars (\$3,000.00) for each calendar day subsequent to the time specified for each project and the time the work is actually completed and accepted. Delays caused by adverse weather conditions or conditions for which the Owner is clearly responsible will be added to the contract time.

8. LABOR PROVISIONS.

The project is subject to both federal and state prevailing wages. The Contractor shall pay laborers the of either the federal or state prevailing wage rate determination for the trades to be utilized. The contractor and all subcontractors on the project shall complete electronic reporting of prevailing wage rate reports through the Department of Industrial Relations, with copies of such reports to be provided to the City.

9. CONTRACT WORK HOURS AND SAFETY STANDARDS REQUIREMENTS.

As used in the following provision, the term “laborers” and “mechanics” include watchmen and guards.

a. Overtime Requirements. Neither the Contractor nor any subcontractor contracting for any part of the Project which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek, whichever is greater.

b. Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in paragraph a. above, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the City for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph a. above, in the sum of \$3,000 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph a. above.

c. Withholding for Unpaid Wages and Liquidated Damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph b. above.

d. Working conditions. Neither the Contractor nor any subcontractor may require any laborer or mechanic employed in the performance of any contract to work in surroundings or under working conditions that are unsanitary, hazardous or dangerous to his health or safety as determined under construction safety and health standards (29 CFR Part 1926) issued by the Department of Labor.

e. Subcontracts. The Contractor and any subcontractor shall insert in any subcontracts the clauses set forth in paragraphs a. through d. and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs a. through d.

10. NONDISCRIMINATION.

The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

11. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM PROVISIONS.

The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as recipient deems appropriate.

The Contractor agrees to pay each subcontractor under this contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the Contractor receives from City. The Contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

12. CIVIL RIGHTS.

The Contractor assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This Provision binds the Contractor from the bid solicitation period through the completion of the contract. This provision shall be inserted in all subcontracts, subleases and other agreements at all tiers.

13. SOLICITATIONS FOR SUBCONTRACTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT.

In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.

14. INFORMATION AND REPORTS.

The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the City and shall set forth what efforts it has made to obtain the information.

15. SANCTIONS FOR NONCOMPLIANCE.

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the City shall impose such contract sanctions as it may determine to be appropriate, including but not limited to:

- a. Withholding of payments to the Contractor under the contract until the Contractor complies, and/or
- b. Cancellation, termination or suspension of the contract, in whole or in part.

16. INSPECTION OF RECORDS.

The Contractor shall maintain an acceptable cost accounting system. The City, the Federal Aviation Administration, the Comptroller General of the United States or any of their duly authorized representatives shall have access to any books, documents, paper, and records of the Contractor which are directly pertinent to this Contract or the Project for the purposes of making an audit, examination, excerpts, and transcriptions. The Contractor shall maintain all required records for 3 years after the City makes final payment and all other pending matters are closed.

17. RIGHTS IN INVENTIONS.

All rights to inventions and materials, if any, generated under this contract are subject to regulations issued by the City. Information regarding these rights is available from the City.

18. BREACH OF CONTRACT TERMS.

Any violation or breach of terms of this Contract on the part of the Contractor or its subcontractors may result in the suspension or termination of this Contract or such other action that may be necessary to enforce the rights of the City under this Contract. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

19. TERMINATION OF CONTRACT BY CITY

a. The City may, by written notice, terminate this Contract in whole or in part at any time, either for the City's convenience or because of the Contractor's failure to fulfill its contract obligations. Upon receipt of such notice, services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this Contract, whether completed or in process, delivered to the City.

b. If the termination is for the convenience of the City, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.

c. If the termination is due to failure to fulfill the Contractor's obligations, the City may take over the work and prosecute the same to completion by contract or otherwise. In such case, the Contractor shall be liable to the City for any additional cost occasioned to the City thereby.

d. If, after notice of termination for failure to fulfill contract obligations, it is determined that the Contractor had not so failed, the termination shall be deemed to have been affected for the convenience of the City. In such event, adjustment in the contract price shall be made as provided in the second paragraph of this clause.

e. The rights and remedies of the City provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

20. INCORPORATION OF PROVISIONS.

The Contractor shall include the provisions of this contract in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations of directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the City may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the City to enter into such litigation to protect the interests of the City and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

21. CONTRACTOR CLAIMS OF \$375,000 OR LESS.

Claims by the Contractor relating to the Project for (a) a time extension, (b) money or damages arising from work done by, or on behalf of, the Contractor on the Project for which payment is not expressly provided for or to which the Contractor is not otherwise entitled, or (c) an amount that is disputed by the City, with a value of \$375,000 or less, are subject to the claims procedures set forth in California Public Contract Code Sections 20104, et seq., except as otherwise provided in this Contract and the incorporated documents, conditions and specifications.

22. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES.

a. No Federal appropriated funds shall be paid, by or on behalf of the Contractor or its subcontractors, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant or the amendment or modification of any Federal grant.

a. If any funds other than Federal appropriated funds have been paid or will be paid by the Contractor or its subcontractors to any person for influencing or attempting to influence an officer or employee of the City, any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

23. ASSIGNMENT OF CERTAIN RIGHTS TO THE CITY.

In entering into this Contract or a subcontract to supply goods, services, or materials pursuant to this Contract, the Contractor and/or subcontractor offers and agrees to assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to this Contract or the subcontract. This assignment shall be made and become effective at the time the City tenders final payment to the Contractor, without further acknowledgement by the parties.

24. ENERGY CONSERVATION REQUIREMENTS

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163)

IN WITNESS WHEREOF, two identical counterparts of this Contract, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on the day and at the place first herein written.

AGENCY: City of Oroville (First Party)

By: _____
(Chuck Reynolds)

Mayor
(Official Title)

CONTRACTOR: Lamon Construction Company, Inc. (Second Party)

By: _____
(Authorized Representative)

(Official Title)

FORM OF PERFORMANCE BOND

Item 3.

KNOW ALL PERSONS BY THESE PRESENTS: That WHEREAS, the City of Oroville, California hereinafter called City, on October 1, 2019, awarded

Lamon Construction Company, Inc., PO Box 632, Yuba City, CA, 95992

Name and Address of Contractor hereinafter

designated as the "Principal", the contract for:

2019 OROVILLE PAVEMENT REHABILITATION PROJECT

NOW THEREFORE, we the Principal, and _____
_____ as Surety, are held and firmly
bound unto _____, hereinafter called the
_____, in the penal sum of _____
_____ Dollars (\$_____)

lawful money of the United States, for the payment of which sum we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, if the above bounden Principal, his/her or its heirs, executors, administrators, successors or assign, shall in all things stand to and abide by and keep and perform the covenants, conditions and agreements in the said contract and any alteration thereof made as therein provided, on his/her or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers and agents, as therein stipulated, then this obligation shall become null and void: otherwise, it shall be and remain in full force and virtue, and also in case suit is brought upon such bond, the above bounden principal and the said surety will pay a reasonable attorney's fee which shall be awarded by the court to the prevailing party in said suit, said attorney's fee to be taxed as costs in said suit and to be included in the judgment therein rendered.

And the surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed or materials and/or equipment to be furnished thereunder or the Specifications accompanying the same, shall in anywise affect its obligations on this bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the Specifications.

IN WITNESS WHEREOF three identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the day of __, 20__.

By _____

By _____

Surety

Contractor

FORM OF LABOR AND MATERIAL BOND

Item 3.

KNOW ALL PERSONS BY THESE PRESENTS:

That we _____ as Surety, and

_____, as Principal, are held and firmly bound unto City of Oroville, in the sum of _____ Dollars (\$_____), said sum being (100% of the estimated amount of the foregoing and annexed contract,

2019 OROVILLE PAVEMENT REHABILITATION PROJECT

to be paid to said _____, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH: That if the above bounden principal, as Contractor in the annexed contract or his/her subcontractors, shall fail to pay for any materials, provisions, provender, or other supplies or teams used in, upon, for or about the performance of the work contracted to be done, or shall fail to pay any person, company or corporation renting or hiring teams or implements or machinery for or contributing to said work to be done, or any person who supplies both work and materials therefore, or the amount due under the Employment Insurance Act with respect to such work or labor, the surety will pay for the same, in an amount not exceeding the above obligation, and also, in case suit is brought upon such bond, the above bounden principal and the said surety will pay a reasonable attorney's fee which shall be awarded by the court to the prevailing party in said suit, said attorney's fee to be taxed as costs in said suit and to be included in the judgment therein rendered. This obligation and bond shall insure to the benefit of any and all persons entitled to file claims under Section 1184C of the Code of Civil Procedure and said persons or any of them or their assigns shall have a right to action thereunder.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this _____ day of _____, A.D., 20 .

Principal _____

Surety _____

(Seal)

By _____

(Attorney in Fact)

STATE OF CALIFORNIA)
) ss.
COUNTY OF BUTTE)

On this _____ day of _____, 20 , before me _____ a Notary Public in and for the County of _____, known to me to be the person whose name is subscribed to the within instrument as the Attorney in Fact of _____ and acknowledged to me that he has subscribed the name of _____ thereto as surety, and **his/her** own name as Attorney in Fact.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public in and for said County and State



CITY OF OROVILLE STAFF REPORT

TO: MAYOR AND COUNCIL MEMBERS

FROM: LEONARDO DEPAOLA, COMMUNITY DEVELOPMENT DIRECTOR

RE: POTENTIAL PARTICIPATION IN THE BUTTE CHOICE JOINT POWERS AGREEMENT, A NEW COMMUNITY CHOICE AGGREGATION (CCA) ENTITY BY BUTTE COUNTY AND CHICO

DATE: OCTOBER 1, 2019

SUMMARY

The Butte Choice Joint Powers Agreement (JPA) is about to be formed by Butte County and Chico. Oroville has an opportunity to join the JPA, which when launched in late 2020 is likely to be able to save Oroville businesses and residents 2% or more on their electricity bills, while at the same time providing at least 33% green energy.

DISCUSSION

By the end of 2019, the Butte Choice CCA is expected to be formed by Butte County and Chico. The Board of Supervisors and City of Chico are in the process of conducting hearings, preparing their ordinances, and drafting the Butte Choice Energy Joint Powers Agreement (JPA) for submittal to the CPUC by December 31, which if all goes well will allow power to be supplied by early 2021. See exhibit A for timelines.

When launched in late 2020 or early 2021 the CCA would be the 19th in California, and will supply green power to ratepayers in those two jurisdictions at an anticipated 2% savings. Over time the CCA is expected to collect enough revenue to perhaps reduce rates, create an economic development incentive, buy long term and greener power, establish low income programs, and/or invest in local green energy projects.

Oroville is invited to join the CCA. Until now Oroville has not been in a fiscal position to consider joining, but the economy and Oroville's fiscal position have improved. If Oroville joins, by late 2020 or early 2021 the CCA is likely to be able to save Oroville businesses and residents 2% or more on their electricity bills while providing at least

33% green energy. A third member of the CCA would also spread startup costs and Launch funding among more ratepayers.

Joining involves:

1. Passing an ordinance as soon as possible authorizing participation,
2. Contributing the City's pro rata share of the \$600,000 startup funding, if asked to do so by Butte County and Oroville;
3. Contributing the City's pro rata share of \$3 Million Phase 1 Launch funding in late 2020 or early 2021, which will open the CCA to commercial and industrial customers;
4. Contributing the City's pro rata share of \$3.5 Million Phase 2 Launch Funding in 2021, which will add residential customers.

Most communities finance their contributions with debt payments covered by revenues from the CCA. Butte County and Chico have already committed the startup funding under the assumption the CCA has two members. Oroville would not need to contribute at this time, but would later need to make up their share of startup during Phase 1 funding.

Background of prior County and Chico JPA Formation Activities

On August 8, 2017, the Butte County Board of Supervisors approved a contract with EES Consulting, Inc. to perform a technical study ("Study") to determine the feasibility of creating a Community Choice Aggregation ("CCA") program in the Butte County region. Developing a CCA in Butte County would allow a new entity to be formed which would purchase or generate electricity for the participating residents and businesses in the area. Elected officials from participating entities would serve on the governing body of this new entity. The Study included the unincorporated area of the County, the cities of Chico and Oroville¹, and the Town of Paradise.

The results of the Study were presented to the Board of Supervisors on July 24, 2018; and to the Chico City Council on August 7, 2018. Both the Board of Supervisors and the Chico City Council directed staff to do the following:

Hold community meetings to gather input from residents and businesses; and Research/identify funding options for initiating a CCA in the Butte County region.

¹ On October 3, 2017 The City Council authorized Butte County's consultant to access electrical usage data within the City's jurisdiction to help with the analysis.

Results of this work was presented to the Board of Supervisors on November, 6, 2018; where direction was given to staff to:

- Continue to research options on financing;
- Have the feasibility study refreshed to include the changes made to the Power Charge Indifference Adjustment – to determine if the concept is still financially feasible in Butte County;
- Begin work with the City of Chico on a potential Join Powers Authority agreement; and Evaluate the potential expansion of participants.

Two vs. 3 or more jurisdictions

The Study analyzed the feasibility of forming a CCA including the unincorporated area of the County, the cities of Chico and Oroville, and the Town of Paradise. Currently, the County and the City of Chico are the two entities that have expressed interest in formation. Should the City of Oroville or the Town of Paradise wish to join the CCA in 2021, it could result in slightly lower costs and spreading of the risk of the initial outlay of funding. Should Oroville or the Town of Paradise wish to join for a 2021 launch, they would need to make a quick decision, by December 31, 2019 or soon after.

In addition to the City of Oroville and the Town of Paradise, there have been other jurisdictions in the North state that have expressed interest in potentially joining this CCA, should it be formed. A process could be developed for the JPA board to assess the potential addition of other entities after the initial launch.

JPA Governance Structure

A governance structure that will oversee the operation of the CCA would need to be formed. A Joint Powers Authority (“JPA”) consisting of elected officials from each of the participating entities is recommended. This is the model most commonly used by existing CCAs. This will need to be completed and submitted to CPUC by December 31, 2019, and will need to include all participating entities. A 3-member JPA would likely have 6 members with 2 votes each.

Financial Needs and Alternatives Update

Staff have reached out to a number of lending entities, both local and outside entities more versed in the CCA industry. The following is a summary of the funding necessary to get the program off the ground, as well as funding options:

1. Startup Funding – approximately \$600,000 to \$800,000. These funds would be used primarily for:
 - a. Implementation Plan;
 - b. Staff and Consultants; and
 - c. Marketing, outreach, required notices and review of energy procurement options.
2. Phase 1 Launch Funding – approximately \$2.5M would be needed for the procurement of energy for commercial and municipalities (45% of the total energy load) for the initial launch of the program.

There appear to be plenty of lending options available for the procurement of energy. Research at this point shows that this funding would need to be guaranteed by the participating entities. It is anticipated that this loan would be fully repaid in less than five years.

3. Phase 2 Launch Funding – approximately \$3M would be needed for the procurement of energy for residents (55% of the total energy total load).

There are a variety of lending options available for Phase 2 of the energy procurement, and the guarantee from the participating entities would not be required for this funding. It is anticipated that this loan also would be fully repaid in less than five years.

Research shows there are a number of viable lenders willing to provide funding for this program. Given that the funding would not be needed until late 2020/early 2021, it is too early in the process to get very specific proposals at this time. However, with 18 successful CCA's operating in California today, this movement continues to gain momentum.

Power Charge Indifference Adjustment – Feasability Study Report Addendum

The Power Charge Indifference Adjustment (“PCIA”), which is a charge assessed to customers of a CCA by PG&E to cover power generation costs incurred by PG&E (an “exit fee”), changed for 2019 in a manner that is not favorable to CCA's. The PCIA rate increased approximately 63% (from \$0.01938/kWh to \$0.03161/kWh) for our region, which adversely impacts the competitiveness of CCA's.

In addition to the increase in the PCIA, there will be a “true up” at the end of each year to reconcile PCIA charges that were charged, to actual costs incurred by PG&E. This true up can result in either a credit or increased costs.

Over time, as contracts terminate – the PCIA charges will also terminate. However, the new immediate increased costs need to be accounted for by CCA's in a number of ways:

- Smaller energy savings to the customers; Longer period to establish ideal reserve levels; Longer period to pay off debt; and/or
- Longer period to invest in local projects.

Two other variables have also evolved since the study was completed:

1. PG&E Retail rate charges – PG&E has increased its generation rates for 2019, which, when updated in the report, make it easier for a CCA to provide a rate discount (as the rates are now higher than originally anticipated in the original report); and
2. Adjustment also made with regard to the share of renewable energy purchased from long-term contracts (greater than 10 years) to be compliant with SB 350, reducing the costs for renewable energy.

The addendum report continued to find that a local CCA is still financially feasible in Butte County. It also finds that a CCA would be able to generate between approximately \$10 - \$15M in annual income which could be used for a variety of energy related matters in this region (reinvest for lower rates, conservation programs, assistance to lower income customers, economic development, etc.). It would also provide customer savings in the amount of \$5M annually (for the City of Chico and the unincorporated areas of the County).

FISCAL IMPACT

The City will need to provide its pro rata share of an estimated \$3 Million financing for Phase 1 in late 2020, and another roughly equal share in early 2021. Each is estimated to be about \$600,000, or roughly a 10% share.

RECOMMENDATION

1. Direct Staff to bring back to Council on October 15, 2019 the first reading of an ordinance authorizing implementation of a Community Choice Aggregation Program as a prerequisite to joining the Butte Choice Energy Joint Powers Agreement, or
2. Take no action at this time.

ATTACHMENTS

1. Attachment A – Timeline
2. Original Feasibility Report, in Butte County Board of Supervisors Meeting of July 24, 2018
3. Feasibility Addendum of April 1, 2019
4. Sample Ordinance
5. Sample Butte Choice Energy JPA Agreement



EXHIBIT A: Butte County – City of Chico Community Choice Aggregation Timeline

Item 4.

Option 1:

Join an Existing CCA

Direct staff to bring back information on details of joining an existing CCA for consideration on July 23rd. (Look at goals and objectives of other CCAs. Other CCAs would want to review our energy data).

2019 Timeline:

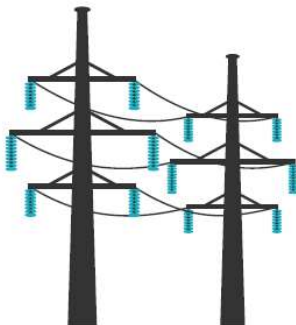
- « **July-Sept** - Authorize PG&E load data for technical analysis
- « **Sept-Nov** - Join CCA as a new member agency by passing JPA resolution and CCA ordinance
- « **Nov** - Appoint JPA Board member(s)
- « **Oct/Nov/Dec** - Existing CCA amends Implementation Plan for submittal to CPUC by **12/31/19**
- « **2019-2020** - Local jurisdiction staff to assist with community outreach and public information

2020 Timeline:

- « **July** - Finalize CCA staffing to join existing CCA (likely 3 staff): Board member, technical expert, and staffer

Cost:

Cost varies based on size/complexity of community. Typically **\$25K to \$50K/jurisdiction** (reimbursable after enrollment of customers).



Option 2:

Form a New CCA

Direct staff to draft JPA agreement and other applicable documents between the County and Chico for Board consideration on August 27th.

2019 Timeline:

- « **July** - Public meetings, communication, and outreach
- « **July/August** - Work on JPA agreement and documents for consideration
- « **August** - BOS & Council actions. JPA formation.
- « **August-December** - Continue to assess the evolving energy market for changes, concerns, and developments that could adversely affect the feasibility study that was done.
- « **September** - All jurisdictions work on CCA principles to include in Implementation Plan (green, brown, incentives, pricing, programs, etc.). Initial JPA Meeting.
- « **October/November** - Implementation Plan (consultant work)
- « **November** - JPA Meeting (consider adopting 2021 implementation plan)
- « **December** - **BOS & Council make final decision: If no support to proceed, no further action taken. If support, proceed to next steps.** File implementation plan with PUC by **12/31/19**

2020 Timeline:

- « **January** - **Funding Needed (\$600 - \$800K).** Costs cover consultants, staff, marketing, opt out notifications, etc. Hire CEO.
- « **February** - Hire Schedule Coordination (likely contract out)
- « **March** - Hire Data Manager (likely contract out)
- « **April** - RFP for Resource Adequacy (peak load energy needs)
- « **April** - RFP for energy procurement lender
- « **May** - Begin work with PG&E on data management/money transfer
- « **June** - RFP for other energy purchase
- « **July** - Finalize CCA staffing (likely 8-10 staff)
- « **August** - Finalize loans/lines of credit for energy procurement
- « **September** - Finalize Resource Adequacy procurement
- « **October** - Finalize PG&E agreement on data and money transfers
- « **November** - Finalize power procurement and send out opt out notice #1
- « **December** - Send out opt out notice #2

2021 Timeline:

- « **January-May** - potential launch date



Butte County Board of Supervisors Agenda Transmittal

Clerk of the Board Use Only

Agenda Item **Item 4.**

5.05

Subject: Findings of Technical Study Related to Feasibility of Community Choice Aggregation (CCA)

Department: County Administration

Meeting Date Requested: July 24, 2018

Contact: Brian Ring

Phone: 530-552-3311

Regular Agenda ☒

Consent Agenda ☐

Department Summary: *(Information provided in this section will be included on the agenda. Attach explanatory memorandum and other background information as necessary).*

On August 8, 2017 the Board of Supervisors approved a contract with EES Consulting, Inc. to perform a technical study to determine the feasibility of a creating a CCA in the Butte County region. The study included the unincorporated area of the County, the cities of Chico and Oroville, and the Town of Paradise. The study concludes that the development of a CCA within the Butte County region would likely result in rate savings to customers, provide economic development tools and positive economic impacts to the jurisdictions, and provide options to customers who wish to use more renewable energy.

Fiscal Impact:

Does not apply.

Personnel Impact:

Does not apply.

Action Requested:

1. Accept for information; and
2. Direct staff to hold community meetings; and
3. Direct staff to identify funding options for initiating a CCA in the Butte County region.

Administrative Office Review: Brian Ring, ACAO



Butte County Administration

25 County Center Drive, Suite 200
Oroville, California 95965

Shari McCracken, Chief Administrative Officer

Item 4.

T: 530.538.7631
F: 530.538.7120

buttecounty.net/administration

Members of the Board

Bill Connelly | Maureen Kirk | Steve Lambert | Doug Teeter | Larry Wahl

MEMORANDUM

DATE: July 13, 2018
TO: Board of Supervisors
FROM: Brian Ring, Assistant Chief Administrative Officer
RE: Findings of Feasibility Study Related to Community Choice Aggregation

Background

On August 8, 2017, the Board of Supervisors approved a contract with EES Consulting, Inc. to perform a technical study to determine the feasibility of creating a Communication Choice Aggregation (CCA) program in the Butte County region. The feasibility study is provided as **Attachment A** and includes the unincorporated area of the County, the cities of Chico and Oroville, and the Town of Paradise. The study meets the requirement of Butte County's General Plan Action COS-A3.1d, which directs the evaluation of the feasibility of a CCA program for the County.

Summary of CCA Programs

CCA programs became an option in California in 2002 with the passage of Assembly Bill 117 – Electrical Restructuring: Aggregation. The law gives California cities and counties the ability to aggregate the electric loads of residents, businesses, and public facilities to facilitate the purchase and sale of electricity in a more competitive market.

Under a CCA program, the Investor Owned Utility (IOU), such as PG&E, is no longer responsible for the purchase and supply of energy. The IOU remains a critical partner, owning all of the infrastructure (power poles, power lines, etc.) associated with power distribution and continues to deliver power using the IOU's lines. IOU's are obligated to continue to deliver electricity, perform billing, and provide customer service to the CCA customers under the same terms and conditions of the IOU's customers.

Some of the goals and resulting benefits of existing CCA programs include:

- Lower electricity costs for businesses and residents;
- Local control of the type of energy that is purchased and the rates that are set;
- Local economic development tools:
 - Ability to create special rates for business;
 - Funding for local energy-related projects;
 - Rate savings will be spent locally, instead of being passed on to IOU shareholders or spent in other geographical areas.
- Consumer choice with regard to what type of energy they purchase; and
- Use of cleaner energy.

Currently there are 18 operational CCA programs in California:

- Apple Valley Clean Energy (San Bernardino County)
- CleanPowerS.F.
- East Bay Community Energy (Alameda County)
- King City
- Lancaster Choice Energy
- Marin Clean Energy (Marin and Napa County)
- Monterey Bay Community Power (Monterey Bay, San Benito, and Santa Cruz)
- Peninsula Clean Energy (San Mateo)
- Pico Rivera Municipal Energy
- Pioneer Community Energy (Placer County)
- Redwood Coast Energy Authority (Humboldt County).
- San Jacinto Power
- San Jose Clean Energy
- Silicon Valley Clean Energy (Campbell, Cupertino, Los Gatos, Saratoga and others)
- Solano Beach
- Sonoma Clean Power (Sonoma and Mendocino County)
- Rancho Mirage Energy Authority; and
- Valley Clean Energy Alliance (Yolo County and Davis).

There are other cities and counties throughout the state in various stages of forming a CCA.

Feasibility Study Findings

The feasibility study concluded that a CCA program within Butte County consisting of, at a minimum, the County's unincorporated area and the City of Chico would accomplish the following:

- Likely result in 2% rate savings
 - Residential – \$29 average annual savings
 - Small Commercial – \$63 average annual savings
 - Medium Commercial – \$671 average annual savings
 - Large Agricultural – \$469 average annual savings
 - Streetlights – average of \$13 annual savings
- Positive impact on economic development
 - Economic development rates for business;
 - Energy efficiency incentives, similar to PG&E;
 - Rate savings mentioned above could result in 42 additional jobs and \$1.9 million in labor income in the area;
- Local control
The CCA governing board would determine:
 - Power supply choice;
 - Rates;
 - Local energy-related programs.
- Risks
There are a variety of risks, however, most appear to have reasonable mitigation measures, as addressed in the report.

Outstanding Items

- Startup Costs: Startup financing needs for the initial phase of the project (which would not include residential) are estimated to be between \$1.5 and \$3 million. For the second phase (which would include residential), another approximate \$3 million would be needed. Startup funds have been provided by partner agencies in all other currently formed CCA programs. Payback for startup costs has been completed within two years by many existing CCA's, though the report conservatively notes a five-year payback. Finding a source of startup funds is a critical hurdle that would need to be overcome, given local agencies' current financial conditions.
- Sufficient Participating Agencies: No single jurisdiction within Butte County is sufficient to form a CCA program. At a minimum, the County and the City of Chico would be required for a viable model.

Next Steps

The City of Chico will be provided this same information at a Council Meeting in August.

If the Board of Supervisors provides the direction requested, below, staff will continue community outreach, as well as find answers to the outstanding questions. Staff anticipates returning to the Board of Supervisors in October with a recommendation regarding whether to establish a CCA program within Butte County or not.

If either the County or the City of Chico determines that it does not want to go any further in the outreach and information gathering process, there will be no further actions taken on establishing a CCA program.

If a CCA program is established, it would be consistent with Goal COS-3 of the Butte County General Plan which promotes a sustainable energy supply.

Action Requested

1. Accept the report as information;
2. Direct staff to hold community meetings to provide information to the public, as well as solicit feedback; and
3. Identify funding options for initiating a CCA within Butte County.

Community Choice Aggregation Initial Feasibility Study

Prepared for:
County of Butte, the Cities of Chico and Oroville, and
the Town of Paradise

Prepared by:



570 Kirkland Way, Suite 100
Kirkland, Washington 98033

A registered professional engineering and management
consulting firm with offices in Kirkland, WA, Portland, OR and La Quinta, CA

Telephone: (425) 889-2700 Facsimile: (425) 889-2725

www.eesconsulting.com



July 17, 2018

Mr. Brian Ring
County of Butte
25 County Center Drive, Suite 200
Oroville, California 95965

SUBJECT: Draft Final CCA Feasibility Study and Business Plan

Dear Mr. Ring:

Please find attached the Final Community Choice Aggregation Study and Business Plan (Plan) for the County of Butte and the Cities of Chico and Oroville and the Town of Paradise (Participants).

It has been a pleasure working for these Participants and we very much appreciate all the effort this working team has spent on the Plan. We look forward to receiving all stakeholder comments after which we will finalize this Plan.

Very truly yours,

A handwritten signature in blue ink that reads "Gary S. Saleba".

Gary Saleba
President/CEO

570 Kirkland Way, Suite 100
Kirkland, Washington 98033

Telephone: 425 889-2700 Facsimile: 425 889-2725

A registered professional engineering corporation with offices in
Kirkland, WA, Portland, OR and La Quinta, CA

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Executive Summary

Introduction

This Initial Feasibility and Business Plan (“Plan”) evaluates the feasibility of a potential Community Choice Aggregation entity (CCA) for the County of Butte, the Cities of Chico and Oroville, and the Town of Paradise (Participants). This Plan is distinguished from a technical study in that it includes a discussion of governance and operating structure alternatives, whereas a technical study focuses purely on the logistical and financial feasibility of forming a CCA.

Summary of Findings

Based on the assumptions in this study, it is likely that a Butte County CCA will provide rate savings on participant’s electric bills. These rate savings are expected to be \$5 million annually where all 4 Participants are included in the CCA. These rate savings will have an economic multiplier effect locally creating 42 additional jobs and \$1.9 million in labor income within Butte County. Rate savings for the 2 Participant CCA are estimated at \$4 million. The uncertainty analysis shows that under a range of reasonable assumptions, a Butte County CCA remains financially feasible.

In addition, the CCA governing board will have local control over power supply choice and local programs that further increase economic development such as investment in energy efficiency or economic development rates. The Participant’s CCA could either form a new Joint Powers Authority (JPA) or join an existing JPA. The amount of voting power the Participants will have when joining an existing JPA will vary depending on the JPA organization structure. If forming its own JPA, the Participants will likely have the most voting power and local control. Based on the feasibility analysis and uncertainty results, it is recommended that the Participants continue to pursue a Butte County CCA. The next step would be to incorporate this study’s findings into an implementation plan so that the CCA can begin operation after the first quarter of 2020.

CCA Background

CCA legislation has been passed or is being considered in several states. With the passage of California Assembly Bill 117 in 2002, local governments are allowed to form CCAs that offer an alternative electric power option to constituents currently served electric power by investor owned utilities (IOUs). CCAs in California have “opt-out” programs, meaning that customers are automatically placed into CCA service, unless they proactively choose to opt out. Under the CCA model, local governments gain control over their electric power supply and generation sources, while the incumbent IOU continues to provide transmission and distribution service. This gives CCAs the opportunity to reduce retail rates to their constituents, promote local economic development and locally determine power supply fuel mix.

There are currently 18 operating CCAs in California and several more planning to launch in the next two years plus multiple feasibility studies being conducted. The CCAs to date have offered rate discounts on the generation portion of electric utility bills, many have done so and offered a greener mix of power supply compared with the incumbent IOU.

Technical Feasibility Study

The Plan evaluates whether forming a CCA in Butte County could result in retail rate savings while promoting local control and local energy programs, holding low-income customers harmless, and increasing economic development. The feasibility analysis also evaluates other options that a future Butte County CCA may adopt as part of its mission including:

- Increasing the renewable energy content of the power mix to exceed the baseline power mix offered by PG&E. For example, the CCA could purchase long-term renewable contracts or invest in new resource development.
- Delivering power that has a greater share of greenhouse gas (GHG) free resources compared with PG&E. Currently, CCA's accomplish this through hydropower purchases.
- Deliver superior local renewable energy development and energy-efficiency programs. Strategies may include bundling low-income energy efficiency programs with other low-income services, or offering competitive incentives for local renewable resource development or community solar projects.

Once the CCA Participants' goals are refined, adopted, and prioritized, modifications to this Plan may be appropriate.

Feasibility Framework

Financial feasibility is determined by comparing forecast rates for the potential CCA with forecast rates estimated for Pacific Gas & Electric (PG&E). In order to develop forecast CCA rates, load data from PG&E was analyzed and adjusted for participation across rate classes. Using this historic data and forecasts completed by the California Energy Commission, EES Consulting, Inc. (EES) forecasts loads over the study period 2019 through 2030. The load forecast was then used to estimate power supply costs for the CCA. Administrative costs, finance costs, and non-operating costs were also estimated based on loads, customers, and recent CCA experience. Given this information, CCA rates are developed.

PG&E rates are forecast according to current and future resources planned, historic rate changes, among other variables. Retail rate revenue under CCA and under PG&E is compared to determine financial feasibility. A sound financial and operational foundation (such as the development of reserves) for the CCA must be achievable before the other desirable attributes of a CCA can be considered.

Feasibility Results

Based on the assumptions in this study, it is likely that a Butte County CCA will provide rate savings on participant's electric bills. These rate savings are expected to be \$5 million annually where all 4 Participants are included in the CCA and the CCA targets a 2% rate savings for its lowest renewable offering of the 3 different options (lowest cost/lowest renewable, moderate renewables/50%, high mix of renewables/75%) Rate savings of \$4 million (2% of the PG&E bundled rate) can be expected for a CCA with only 2 Participants (Unincorporated Butte County and the City of Chico). Exhibit ES-1 illustrates the rate savings by jurisdiction and rate class for the 4 Participant scenario.

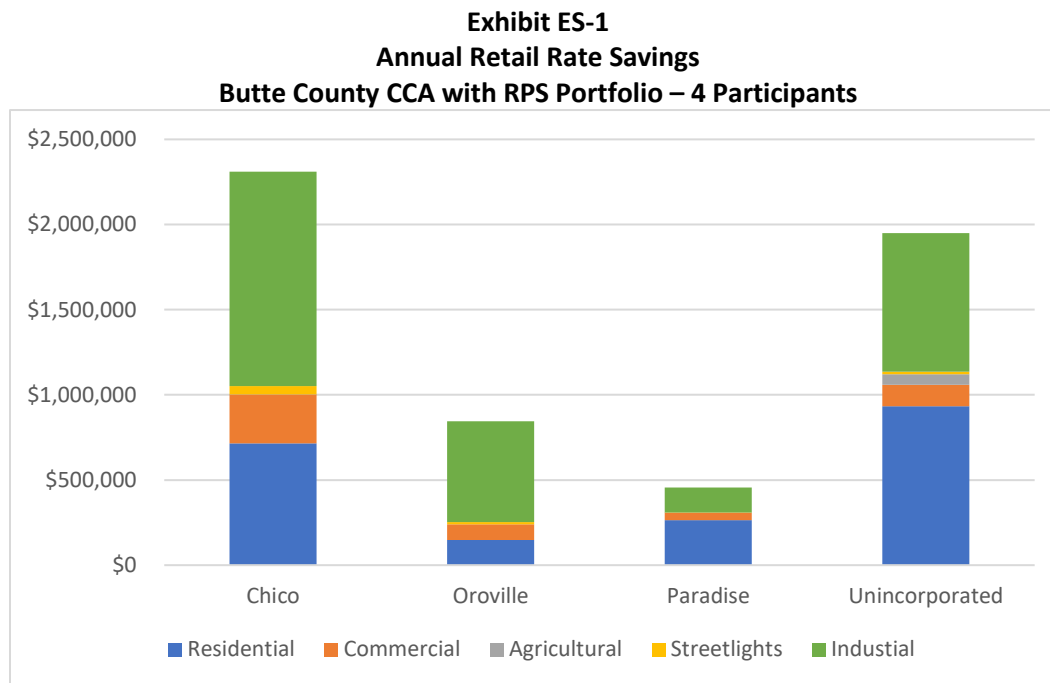
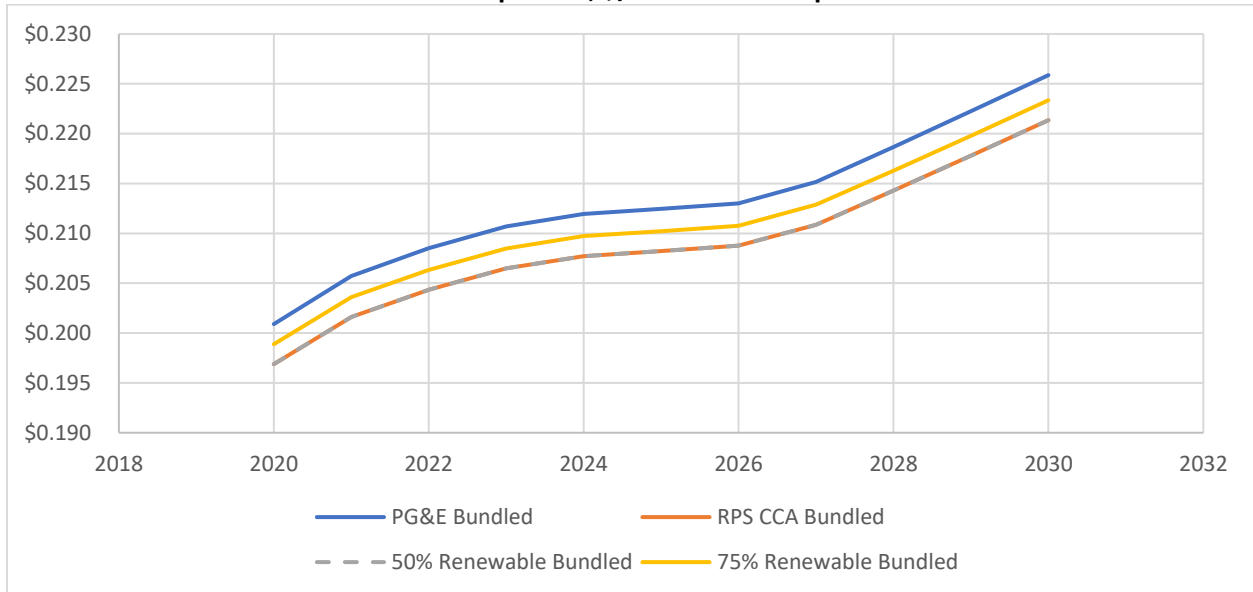


Figure ES-2 shows that PG&E rates are higher compared with the three CCA power supply scenarios modeled: Renewable Portfolio Standard (RPS) CCA Bundled assumes the CCA meet California RPS requirements (currently at 33%); 50% Renewable Bundled assumes the CCA offers power that is 50% renewable; and 75% Renewable Bundled assumes the CCA offers energy that is 75% renewable. The figure illustrates that a Butte County CCA will likely provide retail rate savings even when offering a higher percentage share of renewable energy compared with PG&E.

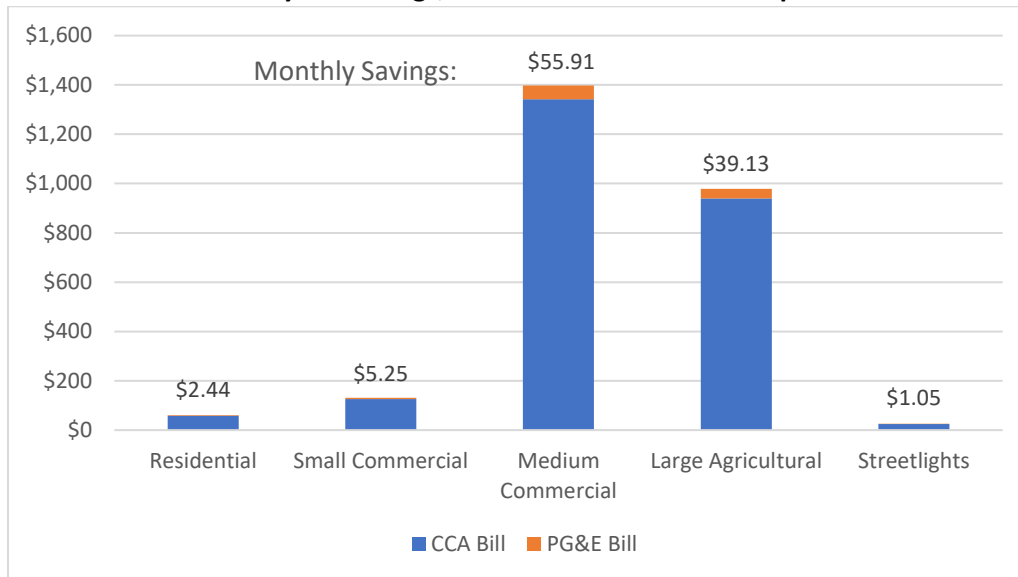
Figure ES-2
Rate Comparison, \$/kWh – 4 Participants



Note that the figure above shows CCA rates that target a 2% rate savings for the RPS and 50% renewable case and a 0.5% savings for the 75% renewable case. These rate savings targets are conservative in that the CCA may be able to offer larger rate discounts while covering expenses.

The feasibility analysis found that a Butte County CCA could result in 2% energy rate savings over PG&E bundled rates (generation plus distribution). The figure below illustrates average bill savings for each customer type. In addition to the classes below, the average industrial customer in Butte County would save 0.0034 cents per kWh, or \$1,200 per month when usage is 310,000 kWh. There will also be savings to local participating municipalities.

Exhibit ES-3
Monthly Bill Savings, Generation Rate – 4 Participants



Total rate savings estimated for the 4 Participants of the Butte County CCA is \$5 million annually. In the 2 Participants scenario (City of Chico and Unincorporated Butte County), rate savings are estimated at \$4 million annually.

Potential Cost Savings

The potential to reduce retail rates through CCA has been achieved in other jurisdictions based on the following cost savings:

- Incumbent IOUs have signed long-term contracts for power purchases at a time when the cost of power was significantly higher than it is now. These contracts are for both conventional and renewable generation. Note that this study uses conservative assumptions for power supply costs and the forecast PG&E rate meaning that the PG&E generation rate is escalated at a lower rate than what might be expected and that CCA power supply costs are estimated higher than what can be expected.
- CCAs are small publicly-owned companies that operate with low overhead. Compared with large firms like PG&E, CCAs operate efficiently due to the necessity to provide rate discounts or greener power products at lower cost.
- CCAs do not provide returns to shareholders.

Despite CCA customers paying charges to recover IOU long-term power supply contracts, CCAs are still providing rate savings to their participants. Launched in April 2017, Apple Valley Clean Energy continues to provide rates savings over Southern California Edison (SCE). Rates approved by the Town Council in January 2018 ensures customers will receive a minimum of 3% rates savings on the energy portion of their bill for the remainder of the year. Low income (CARE) customers will receive approximately 13% savings. Additionally, customers who have rooftop

solar (net energy metered, NEM) receive more than double the credit for energy produced compared with the SCE rate schedule.

Valley Clean Energy (VCE) launched in June 2018 serving customers in Yolo County. VCE is targeting 2.5% retail rate savings on the generation portion of PG&E bills. This rate discount is for a product that has a greater share of renewable energy compared with PG&E's resource portfolio.

Lastly, in December 2017, Pioneer Community Energy initially set retail rates at a 3% savings from PG&E bundled rates (generation plus PCIA plus franchise fee). On March 1, 2018 PG&E raised its rates and Pioneer's Board unanimously voted to maintain CCA rates as they were set in the December before. Given the PG&E rate hike, Pioneer customers are saving 9% compared with PG&E customers.

Economic Development

Economic development is another priority for many of the CCAs in California. Local economic development is bolstered through retail rate savings as well as through the locally focused programs offered by the CCAs.

One such program is a special economic development rate to encourage manufacturers or other types of large commercial and industrial industries to site new or expanded operations within the CCA service territory. Additional loads would then bring jobs and tax revenue. The type of new load may also have an impact on average power supply costs. New loads that improve the system load factor will reduce power supply costs and these savings can be passed through to the new large load customer in the form of lower rates. Finally, new large loads may have the flexibility to participate in demand response programs further reducing the average cost of power supply.

Other programs include energy efficiency incentives. PG&E offers a wide range of rebates to businesses across different sectors, including agricultural, computing and data services, food services and refrigeration, HVAC, and lighting.¹ While these rebates would still be available to the CCA's customers, the CCA could offer similar rebate programs better targeted to the business sectors of interest to their service area.

Rate Savings Multiplier Impacts

Bill savings are a major source for local economic development. The IMPLAN model used in the Plan shows the economic impact resulting from \$5 million in electric bill savings (the estimated annual rate savings after the 4-participant CCA is in full operation). It is estimated that these

¹https://www.pge.com/en_US/business/save-energy-money/business-solutions-and-rebates/product-rebates/product-rebates.page

savings will create approximately 42 additional jobs in Butte County and over \$1.9 million in labor income.

Local Resource Development

In addition to increased economic activity due to electric bill savings, the Butte County CCA could invest in local renewable projects. These projects can also create job and economic growth within the County and are an option for helping the CCA meet the California renewable portfolio standard. In addition, the Board would retain land use authority where any utility scale solar energy facility would be located.

As an example of the macroeconomic activity caused by local commercial renewable resources, this Plan assumes the installation of 10 crystalline silicon, fixed mount solar systems with nameplate capacities of 1 MW each for a total capacity of 10 MW. Overall, the building of a 10 MW solar project is projected to create \$17.5 million in earnings and \$38 million in output (GDP) in the local economy along with 327 jobs during construction and 3 full-time jobs ongoing. The CCA governing board can consider installing a number of larger local solar projects such as the one described above once reserves are available to fund such projects.

Governance Options

The two most likely options for the Participants are to either form a Joint Powers Authority (JPA) and create a new CCA, or to join an existing CCA/JPA. The amount of voting power the Participants will have when joining an existing JPA will vary.

This plan assumes the Participants would form a stand-alone JPA rather than joining an existing JPA or operating as four single jurisdictions. This governance assumption does not significantly impact the feasibility analysis since operating costs and power supply costs are not expected to be significantly different between the governance structures. Rather, the primary difference in governance structure will be with regard to risk. A JPA can provide a firewall between the CCA and Participants' general funds--financially separating the CCA from other city and county departments.

Operational Structure

In contrast to the governing structures discussed above, the operating structure determines how the CCA will be staffed, managed, and operated. Operation of the CCA will involve a range of day-to-day functions including:

- Marketing and outreach
- Customer service
- Power supply contracts and scheduling
- Billing and data transfer with the IOU / California Independent System Operator (CAISO)

- Regulatory compliance with the California Public Utility Commission (CPUC), California Energy Commission (CEC), and CAISO
- Monitoring regulatory and legislative energy policy relevant to CCA competitiveness

These functions can be fulfilled by internal staff, external consultants, or a mix thereof; and, that mix can change as the CCA becomes fully operational. The choice of how to allocate these functions between internal and external resources through the pre-launch and launch phases is at the discretion of the governing body of the CCA. Existing California CCAs have opted for an organizational structure that, once the CCA is fully operational, is primarily comprised of internal staff with some continued support from consultants once fully operational.

For start-up, the Plan assumes that, under the JPA model, an operating team will be employed consisting of an Interim Executive Director, per the example of other CCAs in California, plus a few other CCA technical staff. This team would then be supported by outside consultants to assist with the management of the CCA until full operations are implemented.

For the longer term, the CCA has two options for after the initial start-up. The first option involves hiring internal staff incrementally to match workloads involved in forming the CCA, managing contracts, and initiating customer outreach/marketing during the pre-operations period (Full Staff Scenario). In option two, the CCA would hire just a few staff internally and contract out the remaining work to consultants (Minimum Staff Scenario). Throughout the rest of this Plan, it is assumed that the CCA will transition to the Full Staff Scenario. This scenario represents the highest cost scenario to maintain a conservative posture for the Plan's financial pro formas. Less costly options may be available to the CCA based on subsequent work to evaluate other staffing and operational options.

A variation on the Minimum Staff Scenario would be for the CCA's governing body to hire a third-party vendor (sometimes referred to as a "third-party turnkey" approach) or to join an existing CCA to operate the CCA with only three to four internal staff from the Participants acting as program managers. The third-party turnkey operational model is distinct in that the third party would provide financing for the CCA. Under the third-party turnkey approach, the governing body would issue a Request for Proposals (RFP) for the requested services to hire the vendor to operate the CCA. In this scenario, governance of the CCA would remain a responsibility of the CCA.

Risks and Uncertainties

The results of this Plan are subject to uncertainties. These uncertainties are evaluated in the Plan's Sensitivity and Risk Analysis section. The table below provides a summary discussion of the key uncertainties of this Plan. In depth discussion and quantification of risks are provided in the body of the Plan.

Exhibit ES-4
Comparison of Risks, Mitigation Strategies, and Risk Severity

	Risk	Description	Problem	Mitigation Strategy	Likelihood of Problem	Severity of Problem	Potential to “Break” Butte County CCA
1	PG&E Rates and Surcharges	PG&E's generation rates decrease or its non-bypassable charges increase	<ul style="list-style-type: none"> Butte County CCA rates exceed PG&E Increased customer opt-out rate 	<ul style="list-style-type: none"> Establish Rate Stabilization Fund Invest in a balanced portfolio to remain agile in power market Emphasize the value of programs, local control, and environmental impact in marketing 	High – most operating CCAs in California have undergone short periods of rate competition from the incumbent IOU.	Medium - CCAs have always been able to buffer rate impacts using financial reserves, then adjust power supply to regain rate advantage.	Low – only in the event of very poor contract management by Butte County CCA and unprecedented changes in IOU rates.
2	Regulatory Risks	Energy policy is enacted that compromises CCA competitiveness or independence	<ul style="list-style-type: none"> New costs incurred Reduced authority 	<ul style="list-style-type: none"> Coordination with CCA community on regulatory involvement Hire lobbyists and regulatory representatives 	Low – existing regulatory precedent makes the likelihood of state policies that severely disadvantage CCAs low.	High – a worst case scenario regulatory legislative decision limiting CCA autonomy or enforcing additional costs could hinder CCA viability.	Low – energy policy severe enough to make Butte County CCA infeasible is very unlikely.
3	Power Supply Costs	Power prices increase at crucial time for Butte County CCA	<ul style="list-style-type: none"> Butte County CCA rates exceed PG&E Increased customer opt-out rate 	<ul style="list-style-type: none"> Long-term contracts Draw on Butte County CCA reserves to stabilize rates through price spike 	Low – market prices are unlikely to spike enough to make Butte County CCA financially infeasible prior to CCA launch. From that point on, the CCA can limit its exposure through contract selection.	Medium – a poorly timed price spike combined with poor power supply contract management could require Butte County CCA to dig into reserves or delay launch.	Very low
4	PG&E RPS Share	PG&E's RPS or GHG-free power portfolio grows to match or exceed Butte County CCAs	Increased customer opt-out rate	<ul style="list-style-type: none"> Increase renewable power portfolio Emphasize rates and local programs in marketing 	Medium – PG&E's power portfolio is dynamic and could change rapidly as a result of other CCA departures.	Low – CCA will have capability to increase renewable energy purchases to match or exceed PG&E if the event occurs. In addition, Butte County CCA will promote other benefits of its service to customers.	Very Low – CCA is highly likely to respond effectively if this occurs.
5	Availability of RPS/GHG-Free Power	Unexpectedly high market demand or loss of	<ul style="list-style-type: none"> Butte County CCA unable to 	<ul style="list-style-type: none"> Shift emphasis to GHG-free or RPS resources depending on availability 	Low – power procurement providers report a	Medium – if Butte County CCA were unexpectedly unable to procure enough	Very Low – negligible chance of occurring.

Exhibit ES-4
Comparison of Risks, Mitigation Strategies, and Risk Severity

	Risk	Description	Problem	Mitigation Strategy	Likelihood of Problem	Severity of Problem	Potential to “Break” Butte County CCA
		supply of renewable resources	provide target power products	<ul style="list-style-type: none"> Secure long-term contracts Invest in local renewable resources 	plethora of RPS and GHG-free bids available on the market.	RPS or GHG-free power, it could emphasize other program strengths to retain customers until new resources came online.	
6	Financial Risks	Butte County CCA is unable to acquire desired financing or credit	<ul style="list-style-type: none"> Slower or delayed program launch Unable to build generation projects 	<ul style="list-style-type: none"> Adopt gradual program roll-out Establish Rate Stabilization Fund Minimize overhead costs 	Low – CCAs have become sufficiently established in California that financing is almost certainly available.	Medium – in the event Butte County CCA is limited in financing options, it can adopt a more conservative program design and gradual roll-out.	Very Low
7	Loads and Customer Participation	Unprecedented opt-out rate reduces competitiveness	<ul style="list-style-type: none"> Excess power contracts Poor margins 	<ul style="list-style-type: none"> Increase marketing Reduce overhead Expand to new customer markets Consider merging with existing CCA 	Low – as CCAs have become more common in California, and CCA marketing firms more experienced, opt-out rates have gone lower and lower.	Low – Butte County CCA will have numerous viable options in the event they suffer unexpectedly low participation.	Very Low

Financing Options and Risk

Existing CCAs have funded startup costs in different ways; however, the startup costs have been repaid on an average of 18 to 24 months. The CCA market is rapidly expanding with increasingly proven success. To date, there are more than 18 operational CCAs in California that have demonstrated the ability to generate positive operating results. The early financial institutes were community banks in the CCA service territory, but now a mix of regional and large national banks have shown increased levels of interest. This expanded interest should give the CCA comfort that it will have access to an adequate number of potential financial counterparties.

Most programs that have launched to date and those in development have relied on a sponsoring entity to provide support for obtaining needed funds. This support has come in varied forms which are summarized in Exhibit ES-5.

Exhibit ES-5 Forms of Support		
CCA Name	Pre-Launch Funding Requirement ¹	Funding Sources
Marin Clean Energy	\$2- \$5 million	Startup loan from the County of Marin, individual investors, and local community bank loan.
Sonoma Clean Power	\$4 - \$6 million	Loan from Sonoma County Water Authority as well as loans from a local community bank secured by a Sonoma County General Fund guarantee.
CleanPowerSF	~\$5 million	Appropriations from the Hetch Hetchy reserve (SFPUC).
Lancaster Choice Energy	~\$2 million	Loan from the City of Lancaster General Fund.
Peninsula Clean Energy	\$10 - \$12 million	Loans from Barclays County of San Mateo
Silicon Valley Clean Energy	\$2.7 million	Loans from County of Santa Clara and City members
Clean Power Alliance	\$41 million	\$10 million loan from Los Angeles County and \$31 million Line of Credit from River City Bank.
East Bay Clean Energy	\$50 million	Revolving Line of Credit from Barclays.

¹ Source: Respective entity websites and publicly available information. These funds do not include all funds needed or cover a consistent period.

Start-up financing needs for the CCA are estimated at \$3.1 million. A review of the current options for obtaining funds for the startup costs/initial phases is detailed below:

Collateral Arrangement from Butte County or City – As an alternative to a direct loan a CCA Participant, the Participants could establish an escrow account to backstop a lender's exposure to the CCA. The Participants would agree to deposit funds in an interest-bearing escrow account which the lender could tap should the CCA revenues be insufficient to pay the lender directly.

Revenue Bond Financing – This is not a feasible option at this point given the start-up nature of the CCA and no credit rating.

Direct Loan from Butte County or City –The County or City could loan funds from the General Fund for all or a portion of the pre-launch through Phase 1 needs. The County or City would be secured by the CCA revenues once launched. The County or City would likely assess a risk-appropriate rate for such a loan which is likely higher than the County or City earns for funds otherwise invested. This rate is estimated to be 4.0 percent to 6.0 percent per annum.

After start-up additional funding may be obtained through alternative mechanisms including:

Loan from a Financial Institution without Support – Silicon Valley Clean Energy Authority (SVCEA) was able to use this option to fund ongoing working capital. After members funded a total of \$2.7 million in start-up funds, SVCEA obtained a \$20 million line of credit without collateral.

Vendor Funding – The CCA can pursue arrangements with its power suppliers to eliminate or reduce the need for or size of funding for start-up and operations. This could come in a number of forms such as a “lockbox” approach with a power provider. However, this approach is less transparent and the associated cost may outweigh the benefit of eliminating or reducing the need for a bank facility.

CCA Financing Plan

While there are many options available to the CCA for financing, the initial start-up funding is assumed to be provided via short-term financing. The CCA will recover the principal and interest costs associated with the start-up funding via subsequent retail rates. It is anticipated that the start-up costs will be fully recovered within the first three years of CCA operations. The repayment of start-up costs is based on the cash flow analysis given conservative revenue and expense assumptions made throughout the study. The actual repayment period might be shorter given recent CCA experience where repayment periods average 18 to 24 months.

Phase 1 and Phase 2 of the proposed CCA will require an estimated \$6.1 million in capital. Based on recent information regarding financing options for CCAs, the financial analysis assumes that the Butte County CCA will obtain a loan \$6.1 million with a term of 5 years at a rate of 5.5 percent. While the term of the loan is assumed to be 5 years, the loan is repaid early by 3 years based on the cash flow analysis.

Introduction

California Assembly Bill 117 allows local governments to form community choice aggregations (CCA) that offer an alternative electric power option to constituents currently served electric power by investor owned utilities (IOUs). CCAs in California have “opt-out” programs, meaning that customers are automatically placed into CCA service, unless they proactively choose not to be. Under the CCA model, local governments gain control over their electric power supply and generation sources, while the incumbent IOU continues to provide transmission and distribution service. This gives CCAs the opportunity to reduce retail rates to their constituents, promote local economic development and use cleaner power supply resources.

This Initial Feasibility and Business Plan (“Plan”) evaluates the feasibility of a potential Community Choice Aggregation (CCA) for the County of Butte, the Cities of Chico and Oroville, and the Town of Paradise (Participants). This Plan is distinguished from a technical study in that it includes a discussion of governance and operating structure alternatives, whereas a technical study focuses purely on the logistical and financial feasibility. The potential Participant rates are compared to Pacific Gas & Electric (PG&E) rates. PG&E provided historic energy use data for the Participants’ service area. Using this information, EES Consulting, Inc. (EES) estimated the Participants’ power supply costs, administrative costs, electric loads, and future retail rates for the Participants and PG&E. These forecast rates are then compared to determine if the proposed CCA can offer competitive rates, better products, and/or superior customer service. A sound financial and operational foundation for the Participants must be achievable before the other desirable attributes of a CCA can be enjoyed.

The Plan assumes four overarching CCA goals for the Participants:

- Reduce retail rates
- Increase economic development in Participants’ service territory through special rate classes or other incentives
- Receive a share of CCA revenues for use on local energy programs
- Ensure low-income program offerings are, at minimum, on par with current PG&E offerings

Additional goal options for the board to consider for CCA policy include the following:

- Increase the renewable energy in power mix to exceed the baseline power mix offered by PG&E. For example, the CCA could offer accelerate the rate of renewable resource acquisition, commit to 100% renewable power, or something between.
- Deliver power that has a greater share of greenhouse gas (GHG) free resources compared with PG&E. Currently, CCA’s accomplish this through hydropower purchases.
- Deliver superior local renewable energy development and energy-efficiency programs. Strategies may include bundling low-income energy efficiency programs with other low-income services, or offering competitive incentives for local renewable resource development or community solar projects.

While the Participants have not yet officially adopted these goals, they serve as the foundation of this Plan. Once the Participants' goals are refined, adopted, and prioritized, modifications to this Plan may be appropriate.

Plan Methodology

This Plan evaluates the costs and resulting rates of operating a CCA for the Participants and compares these rates to a PG&E rate forecast for the years 2019 through 2029. This pro forma financial analysis models the following cost components:

- Power Supply Costs:
 - Wholesale purchase
 - Renewable purchases
 - Procurement of resource adequacy (RA) capacity (System, Local and Flexible capacity products)
 - Other power supply and charges
- Non-Power Supply Costs:
 - Start-up costs
 - CCA staffing and administration costs
 - Consulting support
 - PG&E and regulatory charges
 - Financing costs
- Pass-Through Charges from PG&E:
 - Transmission and distribution charges
 - Power Cost Indifference Adjustment (PCIA) Charge, Cost Responsibility Surcharge (CRS), Public Purpose Program (PPP) charges and Nuclear Decommissioning Charge (NDC)
 - Franchise Fee Surcharge

The information above is used to determine the retail rates for the CCA. The Participants' CCA rates are then compared to the PG&E projected rates for Butte County CCA service area. After these rate comparisons are made, the attendant economic development and greenhouse gas (GHG) comparisons are made. Operational and governance options are discussed as well as a sensitivity analysis of the key variables contained in the Plan.

Plan Organization

This Plan is organized into the following sections:

- Load Requirements
- Power Supply Strategy and Costs
- Participants' CCA Cost of Service
- Products, Services and Rates Comparison
- Environmental/Economic Considerations

- Sensitivity Analysis
- Summary and Recommendations

Each section is discussed in more detail below.

Load Requirements

The viability of a CCA for the Participants depends in part on the number of customers that participate in the CCA as well as the quantity of energy these customers consume. This section of the Plan provides an overview of these projected values and the methodology used to estimate them.

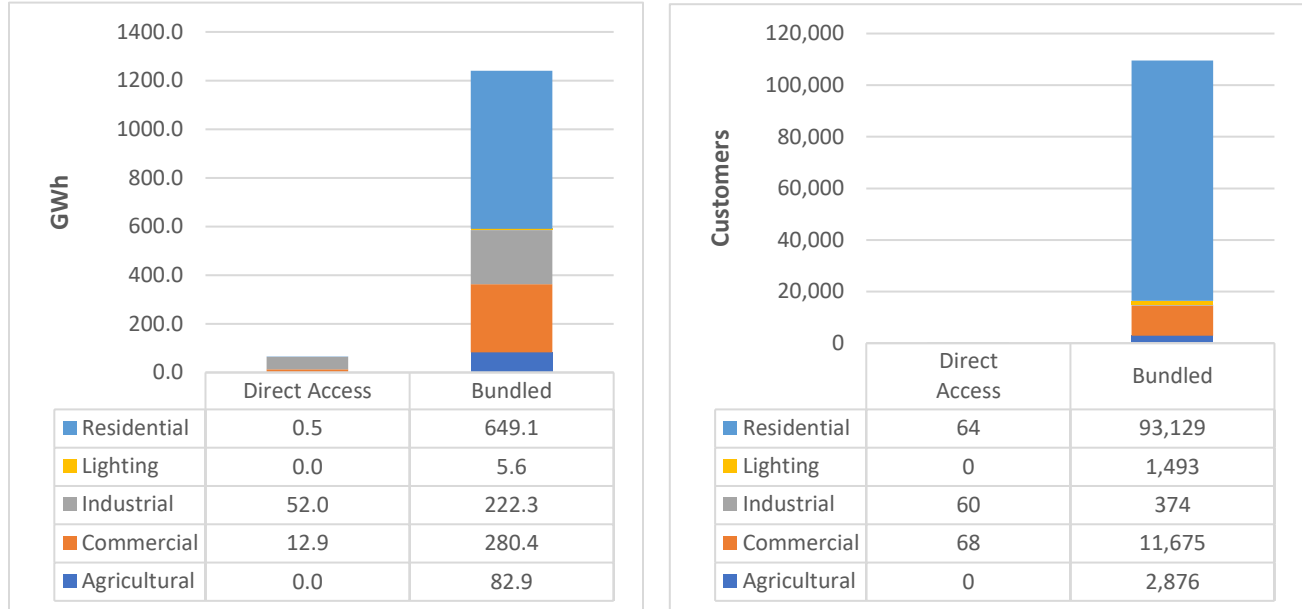
Historical Consumption

PG&E provided monthly historical data on energy use (kWh) and non-coincident peak load (kW) for each customer in Butte County for the 2016 calendar year. EES aggregated this data by rate class in each month for both bundled (full service) and direct access customers. In total, bundled residents and businesses within unincorporated Butte County, the cities of Chico, Oroville, and the town of Paradise purchased 1,240 GWh of electricity in 2016 from PG&E.

Bundled and Direct Access Customers

Bundled customers currently purchase the electric power, transmission and distribution from PG&E. Direct access (DA) customers buy only the transmission and distribution service from PG&E and purchase power from an independent and competitive Electric Service Provider (ESP). At present, bundled customers make up over 98 percent of total customer accounts in Butte County and 95 percent of the total energy use. DA customers account for 2 percent of customers with just 192 accounts. However, because they are primarily large industrial users, they use nearly 5 percent of the annual energy. Exhibit 1 summarizes energy consumption and number of accounts for bundled and DA customers in 2016.

Exhibit 1
Bundled and Direct Access Load and Accounts in 2016 – 4 Participants



In California, eligibility for DA enrollment is currently limited to non-residential customers and subject to a maximum allowable annual limit for new enrollment measured in gigawatt-hours of new load and managed through an annual lottery.² Customers classified as taking service under DA arrangements are not included in this Plan, as it is assumed that these customers will remain with their current Energy Service Provider (ESP).³

CCA Participation Rates

Before customers are served by the Participants' CCA, they will receive a total of four notices: two notices with their monthly energy bill 60 and 30 days before the CCA's launch and two notices 30 days and 60 days after the CCA launches. These notices will provide information needed to understand the terms and conditions of service from the Participants' CCA and explain how customers can opt-out, if desired. Notices typically provide a rate comparison between the CCA and the IOU. Customers that opt-out between the initial switchover date and the close of the post enrollment opt-out period will be responsible for the CCA's charges for the time they are served by the CCA, but will not otherwise be subject to any charges for leaving the Participants' CCA. All customers that do not follow the opt-out process specified in the customer

² S.B. 286 (CA, 2015-2016 Reg. Sess.)

³ CPUC rulemaking to date has not addressed how vintage would be handled to DA customers that opt to switch to receive electric power from a CCA rather than their ESP. The most recent ruling on PCIA vintaging was issued on 10/5/2016: <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M167/K744/167744142.PDF>.

notices prior to launch will be automatically enrolled into the CCA.⁴ The CCA would provide a minimum of four opt-out notices to customers to notify and educate them about the CCA's product and their option to opt-out. Customers who wish to opt out may do so electronically or by phone. Customers who opt out after the first 60-day window may not be able to return to PG&E service for one year. After they are returned to PG&E service, customers may be required by PG&E to stay with PG&E for one year. Customers automatically enrolled will continue to have their electric meters read and billed for electric service by PG&E. The CCA bills processed by PG&E will show separate charges for power supply procured by the CCA, all other charges related to delivery of the electricity by PG&E and other utility charges that will continue to be assessed.

This Plan anticipates an overall customer participation rate of 100 percent for the Municipal accounts and 85 percent for the Commercial and Industrial accounts. For residential accounts, it is assumed that approximately 95 percent of customers will remain with the Participants' CCA. These opt-out assumptions are expected based on participation rates in other CCAs. Operating CCAs in California have experienced participation rates ranging from 83% (Marin Clean Energy) to 98% (Peninsula Clean Energy). On average, 90 percent of all potential customers have stayed with their CCA which includes approximately 95% of residential customers staying with CCA service.⁵ CCA opt out rates have decreased on average since MCE was the first to form.

Participants' CCA Launch Phases

For this Plan, it is assumed that service will be offered to customers in two phases as noted in Exhibit 2.

Exhibit 2 CCA Load, Customers, and Revenue by Phase – 4 Participants						
Phase	Assumed Start	Eligibility	Average Customer Accounts	Total Load (GWh)	Peak Demand (MW)	Normalized Annual Operating Revenues
Phase 1	April 2020	Agricultural, Commercial, Industrial, Lighting	12,000	475	140	\$31 million
Phase 2	August 2020	Residential	92,400	1,200	390	\$78 million

Data for Phase 2 includes accounts, load, peak, and revenues from previous phases. Estimates assume an 95% and 85% participation rate for residential and non-residential customers respectively. Loads are expressed as wholesale load, including 7 percent transmission and distribution losses. Revenues and loads are presented on an annual basis assuming each phase would be run for a full year. Operating Revenues include CCA costs, Franchise Fee Surcharge, and PG&E's Power Charge Indifference Adjustment (PCIA) charges (See Glossary).

⁴ Typically, this doesn't apply to DA customers as the CCA would assume that these customers are not interested in being served by Butte County CCA unless otherwise confirmed prior to launching service.

⁵ Average opt-out rate determined based on published number of customers and opt-out rates of Marin Clean Energy, Peninsula Clean Energy, Sonoma Clean Power, Apple Valley Clean Energy, and Lancaster as found at the following document <http://www.vvdailypress.com/news/20170818/apple-valley-choice-energy-prompts-thousands-of-customer-calls>. Published 8/18/2017; accessed 2/15/2018.

This phasing strategy enables the Participants' CCA to manage any start-up and operational issues before full scale operations commence. In addition, this phasing strategy will allow the CCA's electricity suppliers, scheduling coordinators and data management entities to ramp up power supply procurement and bill processing over several months. It will also likely minimize bad debt expense exposure since lower start-up costs are required in particular with regard to power purchases. Phasing is also expected to have a positive impact on customer participation through demonstrated successful service in early phases.

Data on energy use and number of customers for each phase is displayed in Exhibit 3. Exhibit 4 illustrates the historic monthly load by end-use sector for the accounts in each phase of the CCA's launch.

Exhibit 3
Historic Load and Customers by Phase – 4 Participants

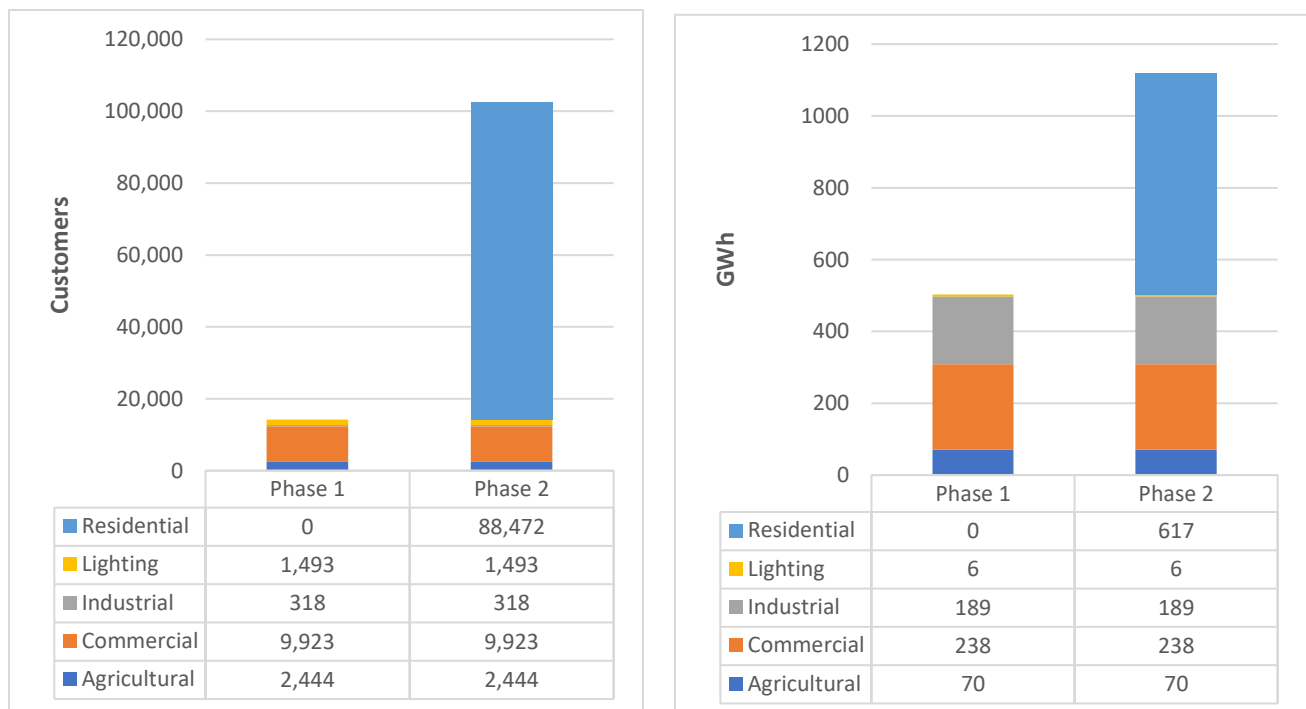
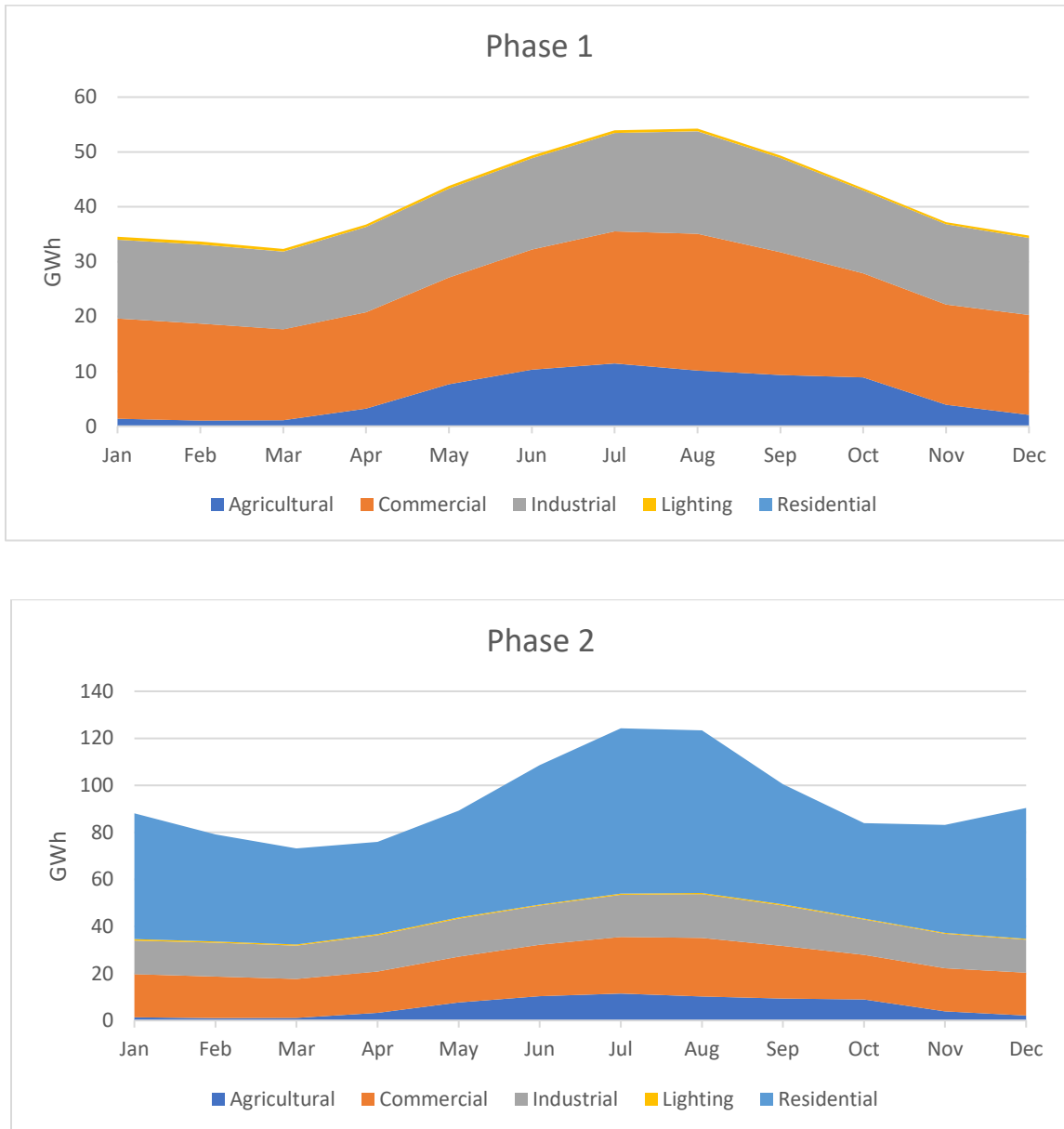


Exhibit 4
Historic Monthly Load by Phase – 4 Participants

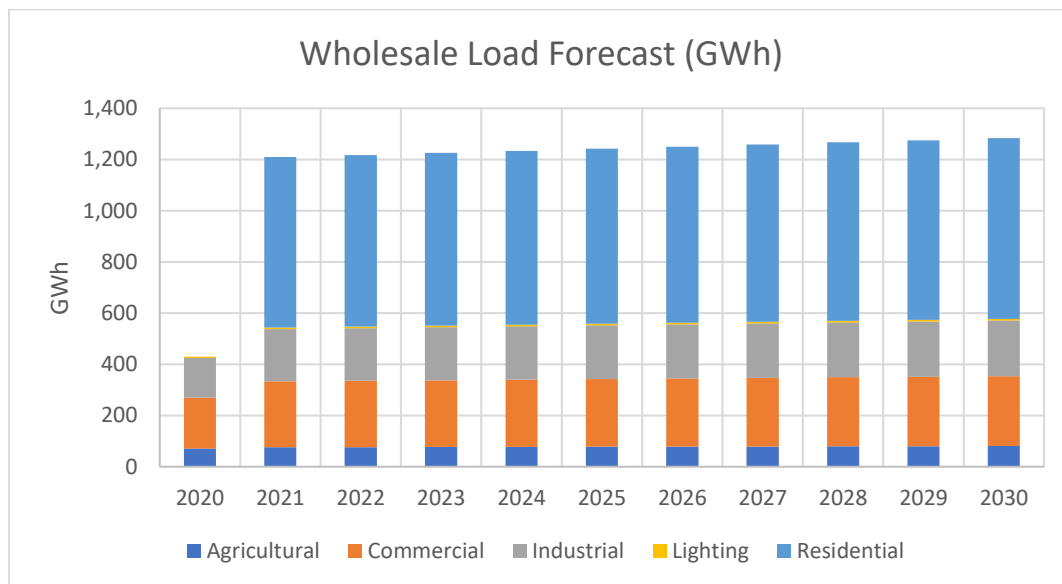


It should be noted that Phase 1 and Phase 2 launch dates for this Plan of April 2020 and August 2020, respectively, have been assumed. The California Public Utilities Commission has recently issued a Resolution 4723 that may delay the Participants' CCA launch until early 2020. The actual impacts of this Resolution and what flexibility it may offer is still being tested and defined. The specific launch date is not expected to significantly impact the financial, environmental and economic development merits of forming a CCA.

Forecast Consumption and Customers

The number of customers enrolled in the CCA and the retail energy they consume are assumed to increase at 0.7 percent per year. This forecast is based on the California Energy Commission's (CEC) mid-demand baseline forecasts for PG&E service territory – Non-Bay Area.⁶ Hourly electric consumption and peak demands have been estimated based on PG&E's hourly load profiles for each customer classification. The forecast of load served by the Participants' CCA over the next 12 years is shown in Exhibit 5. This CCA forecast of GWh sales in Exhibit 6 reflects the roll-out and customer enrollment schedule shown previously. Annual wholesale energy requirements are also shown below in Exhibit 6 ("Total Load" column).

Exhibit 5
Projected Load by Sector – 4 Participants



⁶ http://www.energy.ca.gov/2017_energypolicy/documents/

Exhibit 6			
CCA Projected Annual Energy Requirements (GWh) – 4 Participants			
Year	Retail Sales	Losses ⁷	Total Load
2020	650	43	693
2021	1,156	76	1,233
2022	1,164	77	1,241
2023	1,172	77	1,249
2024	1,180	78	1,257
2025	1,187	78	1,266
2026	1,195	79	1,274
2027	1,203	79	1,282
2028	1,211	80	1,291
2029	1,219	80	1,299
2030	1,227	81	1,308

Resource Adequacy Requirements

In addition to determining the base and renewable resource requirements, the CCA will also need to demonstrate it has sufficient physical power supply capacity to meet its projected peak demand plus a 15 percent planning reserve margin. This requirement is in accordance with resource adequacy (RA) regulation administered by the California Public Utilities Commission (CPUC), California Independent System Operator (CAISO) and the California Energy Commission (CEC).

The CPUC's resource adequacy standards require that the CCA demonstrate, one year in advance, that it has secured physical capacity for all of its "local requirements." At this same time the CCA must also demonstrate 90 percent of its procurement obligation for each of the five months May through September, plus a minimum 15 percent reserve margin. On a month-ahead basis, the CCA must demonstrate 100 percent of its procurement obligation of local, system and flexible capacity products. Generally speaking, this reflects a total of 115% of monthly demand, although the specific procurement obligation is determined by the CEC in consultation with the CAISO. The CPUC undertakes annual policy changes to the RA program, so these requirements may change some by the time full program phase-in occurs. Different types of resources have different capacity values for RA compliance purposes, and those values can change by month. Moreover, pending rule changes may have the result of reducing the RA value from wind and solar resource as more of those technologies are added to the system, so other types of renewables, such as geothermal or biomass, could have an overall better value in the portfolio than relying on RA solely from gas-fired resources.

⁷ Transmission and Distribution power losses were estimated at 6.6% based on the California Energy Commission's Public Electricity and Natural Gas Demand Forecast published 4/20/2015 at http://docketpublic.energy.ca.gov/PublicDocuments/15-IEPR-03/TN204261-9_20150420T154646_Pacific_Gas_and_Electric_Company's_Notes_re_2015_IEPR_Demand_Fo.pdf.

The Plan's load forecast estimates capacity needs, including RA capacity requirements, to be used in the power supply cost forecasting analysis noted later in this Plan.

Power Supply Strategy and Costs

This section of the Plan discusses the CCA's resource strategy, projected power supply costs, and resource portfolios based on the Participants' CCA projected loads.

Long-term resource planning involves load forecasting and supply planning on a 10- to 20-year time horizon. The Participants' CCA planners will develop integrated resource plans that meet their supply objectives and balance cost, risk, and environmental considerations. Integrated resource planning also considers demand side energy efficiency, demand response programs, and traditional supply options. The Participants' CCA will require staff or a consultant to oversee planning even if the day-to-day supply operations are contracted to third parties. This staff or consultant will ensure that local preferences regarding the future composition of supply and demand resources are planned for, developed, and implemented.

Resource Strategy

The Participants' CCA is interested in minimizing overall energy bills, utilizing revenue as a tool for economic development, meeting renewable energy requirements as mandated by the State. The CCA can achieve these goals in the short-term by taking advantage of relatively low wholesale market prices. As discussed in greater detail below, the CCA's electric portfolio will be guided by the CCA's policymakers with input from its scheduling coordinator and other power supply experts. The scheduling coordinator will obtain sufficient resources each hour to serve all of Butte County CCA customer loads. The CCA policymakers will guide the power supply acquisition philosophy which meets the CCA's policy objectives.

Projected Power Supply Costs

This Plan presents the costs of renewable and non-renewable generating resources as well as power purchase agreements based on current and forecast wholesale market conditions, recently transacted power supply contracts, and a review of the applicable regulatory requirements. In summary, the CCA will need to procure market purchase, renewal purchases, ancillary services and power management/schedule coordinator services. Each of these cost categories is discussed below.

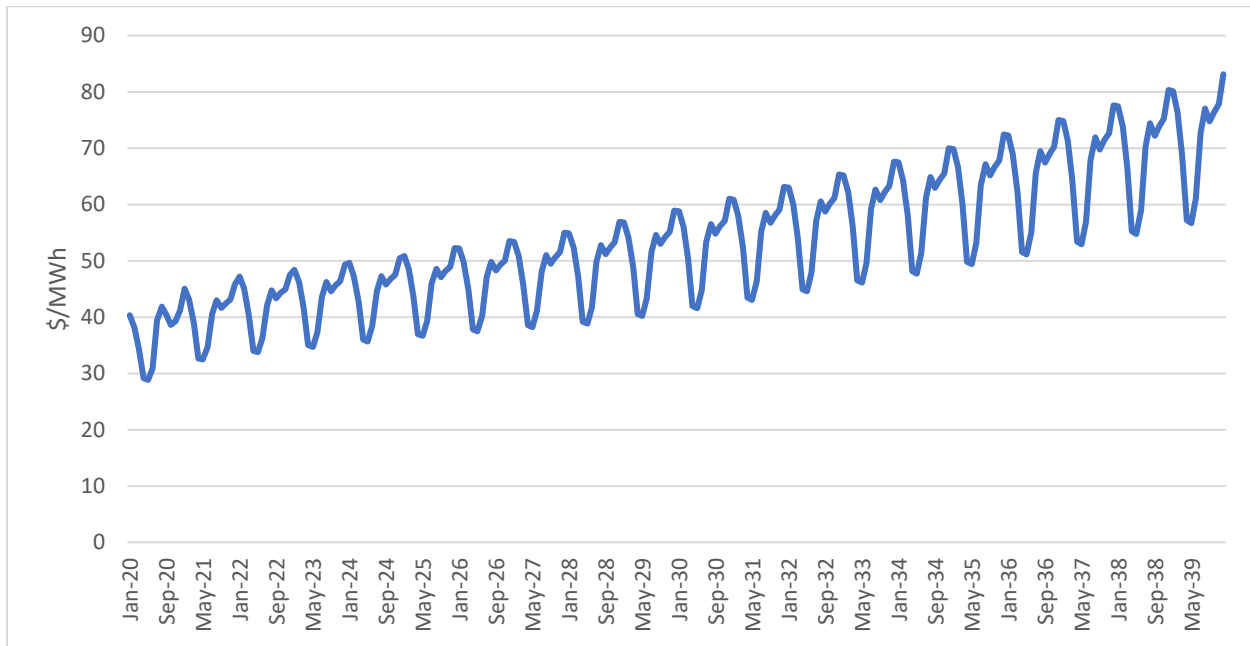
Market Purchases

Market prices for NP15⁸ were provided by EES's subscription to a market price forecasting service. An adder of \$2/MWh was included in the forecast power purchase agreement (PPA)

⁸ NP15 refers to the delivery point north of path 15 where wholesale electricity priced. This is the closest delivery point for power ultimately delivered to Butte County. Deliveries to the Butte County distribution system would require an adder to account for price differentials between the NP15 delivery point and the local Butte County system.

prices to account for basic differences between power delivery at NP15 and delivery at the Butte County local system. An additional adder of \$1/MWh was included for a bid/ask spread. Exhibit 7 shows forecast monthly northern California wholesale electric market prices. The levelized value⁹ of market prices over the 20-year study period is \$51/MWh (2018\$) assuming a 4 percent discount rate.

Exhibit 7
Forecast Northern California Wholesale Market Prices



Load balancing purchases and sales have been priced at forecast wholesale power prices. Specifically, when the CCA's loads are greater than its resource capabilities, the CCA's scheduling coordinator will schedule balancing purchases. Similarly, when the CCA's loads are less than its resource capabilities, the CCA's scheduling coordinator will transact balancing sales and the CCA will receive market sales revenue. Balancing market purchases and sales can be transacted on a monthly, daily and hourly pre-schedule basis.

Renewable Energy

The wholesale market prices shown above in Exhibit 7 are for non-renewable power (i.e., this product does not come with any renewable attributes). The cost of renewable resources varies greatly. Wind and solar levelized project costs vary from \$35 to \$60/MWh. Geothermal project costs can vary from \$70 to \$100/MWh. While geothermal projects have higher cost, they also have higher capacity factors than wind and solar projects and, as such, can bring additional value to the CCA as baseload resources. Geothermal resources also bring value from a resource

⁹ Levelized value, or levelized cost is a calculation that flattens a real or nominal price trend over a period of time. A 20-year levelized cost for the wholesale price of electricity is the market price level over 20 years assuming a discount rate.

adequacy perspective. The availability of off-shore wind and ocean power in the marketplace is fairly minimal, so these resources were not included in this assessment of renewable energy market prices.

This Plan assumes a base case renewable energy market price of \$45/MWh for a blend of wind and solar resource contracts, based on a survey of renewable resources currently in operation and new projects coming on-line. Going forward, it is assumed that this price will remain static for the 20-year study period to balance the influence of two trends. First, renewable energy prices are being driven down by the rapidly declining cost of solar and wind projects. This trend has persisted over the past several years and is expected to continue over the Plan's forecast period. However, this trend could be balanced out by the impact of increasing statewide demand for renewables as a result of California's renewable portfolio standards (RPS) laws. These assumptions regarding renewable energy prices have been independently confirmed by current market trends in northern California.

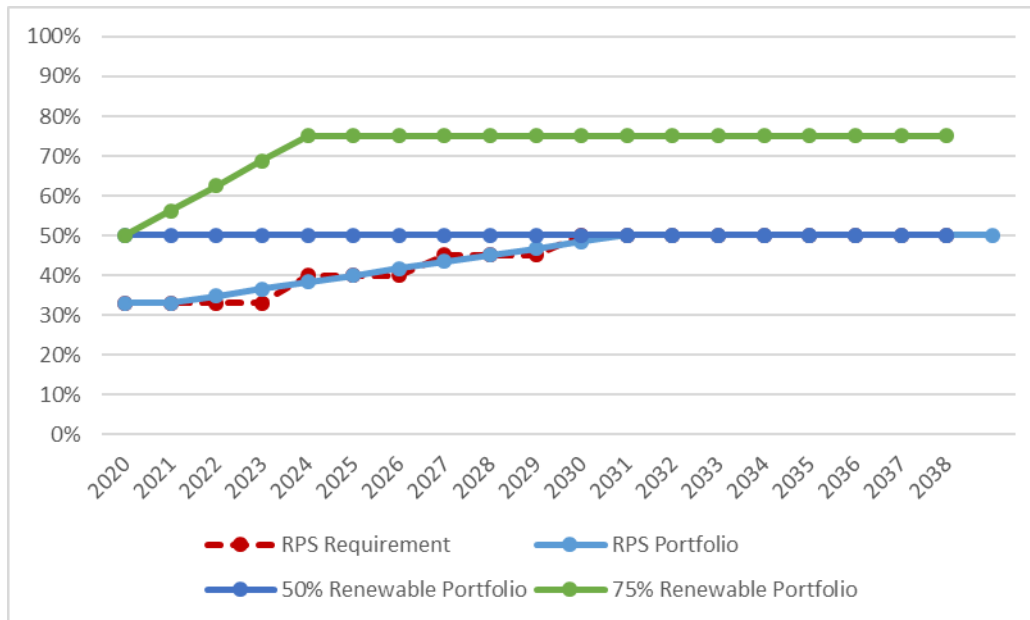
CCA customers are given a choice in their power supply sources or "resource portfolios".

Three resource portfolios are assumed in this Plan for power supply cost modeling contained in this Plan. These resource portfolios are modeled separately for the entire CCA. In practice, CCAs offer different portfolios from which participants select their power supply such that the resulting CCA power mix is a weighted average among 2 or more portfolio options.

- 1) **RPS Portfolio:** Achieve 33 percent renewables in 2020. Follow the California RPS requirements in all years after 2020, including reaching the 50 percent renewable target in 2030. A linear progression in annual renewable energy purchases, moving toward the RPS targets, is assumed.
- 2) **50% Renewables Portfolio:** 50 percent of retail loads are served with RPS-qualifying renewable resources in all years.
- 3) **75% Renewables Portfolio:** 50 percent of retail loads are served with RPS-qualifying renewable resources in 2020. Beginning in 2024, 75 percent of retail loads are served with RPS-qualifying renewable resources. A linear progression in annual renewable energy purchases, moving toward the 75 percent target, is assumed in 2021 through 2024.

The resource portfolios will be discussed in greater detail in the "Resource Portfolios" section below. It should be noted that the CCA policymakers may opt for other resource portfolios but those selected above should give the Participants a sound basis for evaluating other resource portfolio options. The renewable energy targets of the three cases included in the power cost model are shown below in Exhibit 8.

Exhibit 8
Renewable Energy Purchase Scenarios Compared to RPS Requirements¹⁰



Note: The “RPS Portfolio” line shown above assumes that the CCA would continually increase its renewable portfolio content to meet upcoming RPS requirements. This assumption is necessary to comply with the requirement to show reasonable progress toward the three-year compliance period target. Compliance period requirements are 25 percent in 2019, 33 percent in 2020-23, 40 percent in 2024-26, 45 percent in 2027-29 and 50 percent beginning in 2030. At a minimum, comparability with PG&E is recommended.

Renewable Energy Credits (RECs)

California load serving entities (LSE) must purchase bundled energy and/or renewable energy credits (RECs) that meet certain eligibility requirements across three Portfolio Content Categories (PCC) or buckets. Each of the buckets represents a different type of renewable product that can be used to meet up to a specific percent of the total procurement obligation during a compliance period. The permitted percentage shares of each bucket type changes over time. The three buckets and the type of energy included in each bucket are summarized as follows:

- **Bucket 1:** Bundled renewable resources and RECs – either from resources located in California or out-of-state renewable resources that can meet strict scheduling requirements ensuring deliverability to a California Balancing Authority (“CBA”);

¹⁰ <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M158/K845/158845742.PDF>

- **Bucket 2:** Renewable resources that cannot be delivered into a CBA without some substitution from non-renewable resources.¹¹ This process of substitution is referred to as “firming and shaping” the energy. The firming and shaped energy is bundled with Renewable Energy Certificates (RECs).
- **Bucket 3:** Unbundled Renewable Energy Credits (RECs), which are sold separately from the electric energy.¹²

Under the current guidelines, the number of RECs that can be procured through Buckets 2 and 3 are limited and decrease over time. SBX1 2 (April 2011) established a 33 percent RPS requirement by 2020 with certain procurement targets prior to 2020. SBX1 2 also limits the amount of Bucket 3 RECs to 10% of the RPS requirement. SB350 (October 2015) increased the RPS requirement to 50 percent by 2030. Based on these bills, the share of renewable power that can be sourced from Bucket 2 or 3 is expected remain the same over the study period.¹³

Unbundled RECs (Bucket 3) are not viewed as favorably for the development of new renewable power projects. Specifically, purchasing unbundled RECs from existing renewable resources does not substantially incentivize the amount of renewable projects in the State. In addition, the REC market is not as liquid as it once was. For these reasons, this Plan does not rely on unbundled REC purchases to meet renewable energy purchase requirements under the RPS. However, small quantities of unbundled RECs may be used to balance the CCA’s annual renewable energy purchase targets with the output from renewable resources. In practice, unbundled RECs may be used as a last effort to help meet the RPS requirement if needed, but only up to 10% of the requirement.

Due to the size and shape of the renewable energy purchases, the annual modeled renewable energy purchases do not match up with annual renewable energy purchase targets down to the REC. In some years there are small REC surpluses and in some years, there are small REC deficits. These surpluses and deficits are balanced out using unbundled REC purchases and sales. This methodology was used in order to simplify the modeling. In reality, small REC surpluses and deficits would most likely be handled by banking RECs between years. For the base case, unbundled REC prices are assumed to increase from \$10/REC in 2019 to \$20 in 2038 (3.7 percent annual escalation).

¹¹ This may occur if a California entity purchases a contract for renewable power from an out of state resource. When that resource cannot fulfill the contract, due to wind or sun intermittency for example, the missing power is compensated with non-renewable resources.

¹² For example, a small business with a solar panel has no RPS compliance obligation, so they use the power from the solar panel, but do not “retire” the REC generated by the solar panel. They can then sell the REC, even though they are not selling the energy associated with it.

¹³ California Public Utilities Commission Final Decision, 12/20/2016, accessed at: <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M171/K457/171457580.PDF>, on 1/19/2017.

Ancillary Service Costs

The CCA will pay the CAISO for transmission congestion and ancillary services. Transmission congestion occurs when there is insufficient capacity to meet the demands of all transmission customers. Congestion is managed by the CAISO by charging congestion charges in the day-ahead and real-time markets. The Grid Management Charge (GMC) is the vehicle through which the CAISO recovers its administrative and capital costs from the entities that utilize the CAISO's services.

In addition, because generation is delivered as it is produced and, particularly with respect to renewables can be intermittent, deliveries need to be firmed using ancillary services to meet the CCA's load requirements. Ancillary services and products will need to be purchased from the CAISO based on the total loads served. Based on a survey of transmission congestion and ancillary service costs currently paid by CAISO participants, the Participants' CCA base case ancillary service costs are estimated to be near \$2/MWh, escalating by 1.5 percent annually thereafter. Serving a greater percentage of load with renewables will likely result in increased grid congestion and higher ancillary service costs. For this reason, ancillary service costs are assumed to increase with increasing amounts of renewable purchases, up to \$4/MWh in the 75% Renewables portfolio (plus 1.5 percent annual escalation).

Power Management/Scheduling Coordinator

Given the likely complexity of the CCA's resource portfolio, the CCA may want to rely on a reputable scheduling coordinator to efficiently manage the CCA's power purchases and wholesale market transactions. The CCA's resource portfolio will ultimately include market purchases, shares of some relatively large power supply projects, as well as shares of smaller, most likely renewable, resources with intermittent output. Managing a diverse resource portfolio with metered loads that will be heavily influenced by distributed generation may be one of the most important functions of the CCA. As such, the Participants' CCA will need to be dependable and have an established scheduling coordinator with a proven track record in the industry. The Participants' scheduling coordinator will be one of its most important business partners.

The CCA should initially contract with a third-party with the necessary experience (and balance sheet) to perform most of the CCA's portfolio operation requirements. This will include the procurement of energy and ancillary services, scheduling coordinator services, and day-ahead and real-time trading. Portfolio operations encompass the activities necessary for wholesale procurement of electricity to serve end use customers. These activities include the following:

- *Electricity Procurement* – assemble a portfolio of electricity resources to supply the electric needs of the CCA customers.

- *Risk Management* – standard industry risk management techniques will be employed to reduce exposure to the volatility of energy markets and insulate customer rates from sudden changes in wholesale market prices.
- *Load Forecasting* – develop accurate load forecasts, both long-term for resource planning, and short-term for the electricity purchases and sales needed to maintain a balance between hourly resources and loads.
- *Scheduling Coordination* – scheduling and settling electric supply transactions with the CAISO, with related back office functions to confirm PG&E billing to customers.

The Participants' CCA should approve and adopt a set of protocols that will serve as the risk management tools for the CCA and any third-party involved in the CCA portfolio operations. Protocols will define risk management policies and procedures, and a process for ensuring compliance throughout the CCA. During the initial start-up period, the chosen electric suppliers will bear the majority of risks and be responsible for their management. The protocols that cover electricity procurement activities should be developed before operations begin.

A scheduling coordinator provides day-ahead and real-time power and transmission scheduling services. Scheduling coordinators bear the responsibility for accurate and timely load forecasting and resource scheduling including wholesale power purchases and sales required to maintain hourly load/resource balances. A scheduling coordinator needs to provide the marketing expertise and analytical tools required to optimally dispatch the CCA's surplus resources on a monthly, daily, and hourly basis.

The CCA's scheduling coordinator will need to forecast the CCA's hourly loads as well as the CCA's hourly resources including shares of any hydro, wind, solar, and other resources in which the CCA is a participant/purchaser. Forecasting the output of hydro, wind, and solar projects involves more variables than forecasting loads. Scheduling coordinators already have models set up to accurately forecast hourly hydro, wind, and solar generation. Accurate load and resource forecasting will be a key element in assuring the Participants' CCA's power supply costs are minimized.

A scheduling coordinator also needs to provide monthly checkout and after-the-fact reconciliation services. This requires scheduling coordinators to agree on the amount of energy purchased and/or sold and the purchase costs and/or sales revenue associated with each counterparty with which the CCA transacted in a given month.

Based on conversations with scheduling coordinators currently working the CAISO footprint, the estimated cost of scheduling services is in the \$0.1 to \$0.25/MWh range. This Plan assumes a cost of \$0.2/MWh, escalating at 2.5 percent annually, in all portfolios.

Resource Portfolios

Projected power supply costs were developed for three representative resource portfolios. Portfolios are defined by two variables: (1) the share of renewable energy in the power mix (per the “Renewable Energy” discussion above), and (2) the share of resources that are GHG-free in the power mix. Renewable resources refer to resources that qualify under State and Federal RPS, such as solar and wind power. GHG-free power refers to energy sourced from any non-GHG emitting resource, including both the RPS-compliant sources mentioned above as well as nuclear power and large hydroelectric power.

PG&E’s resource portfolio currently includes non-renewable energy purchases, renewable energy purchases as well as other non-greenhouse gas (GHG) emitting resources, primarily nuclear and large hydroelectric resources. In 2017, which was a very good year for hydroelectric generation, PG&E’s resource portfolio was 79 percent GHG-free.¹⁴ In the “RPS Portfolio” scenario, it is assumed that the Participants’ CCA’s resource portfolio is 80 percent GHG-free in all years. In the “50% Renewables Portfolio” and the “75% Renewables Portfolio” it is assumed that the CCA’s resource portfolio is 80 percent GHG-free in 2019 and 2020 and that the GHG-free resources increase by 1.5 percent each year after 2020 until 2030 when GHG-free resources are 95 percent. The GHG-free resources remain at 95 percent until the end of the Plan’s study period (2038).

Last August, PG&E requested approval from the California Public Utilities Commission (CPUC) to retire the Diablo Canyon Power Plant (DCPP), PG&E’s only nuclear power generating station¹⁵, by 2025. PG&E’s plan would replace the lost generating capacity (roughly 23 percent of all PG&E load¹⁶) with a mix of energy efficiency and renewable power. This proposal would leave PG&E to select whatever mix of the two resource types is cheapest at the time. For the purposes of this Plan, it is assumed that all power used to replace DCPP will be GHG-free and that PG&E will continue to reduce GHG emissions over that period. In the “RPS Portfolio,” the Plan assumes that 65.8 percent of Butte County CCA load is served by GHG-free resources in 2020. As the amount of load served by renewable resources increases each year, so too will the amount of load served by GHG-free resources. This is true of all three portfolios included in the Plan. GHG-free targets for the three portfolios included in the Plan are:

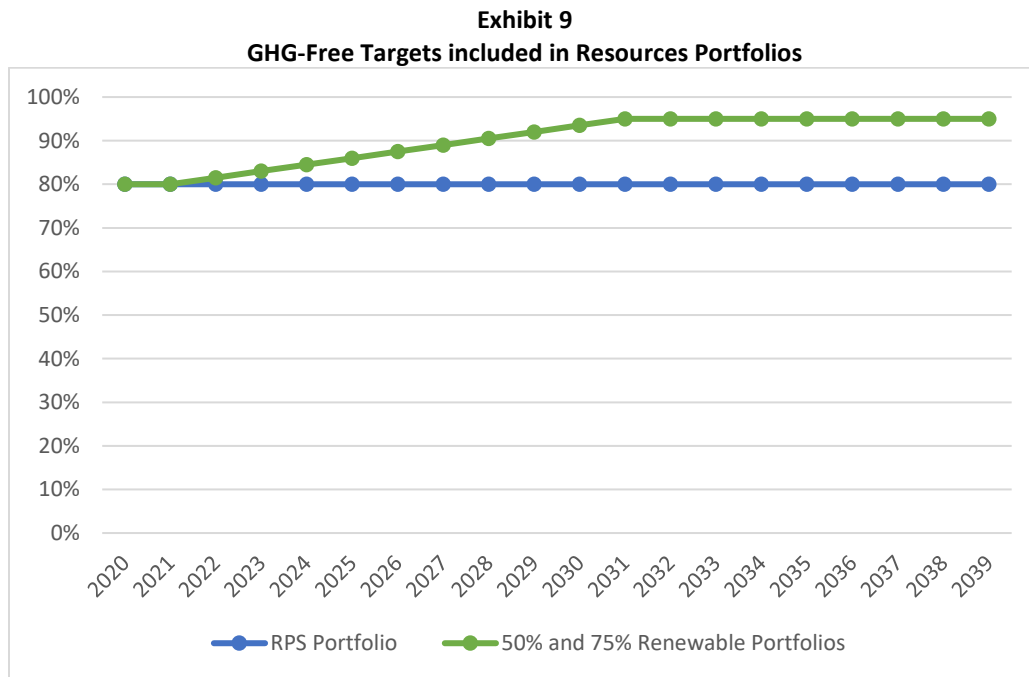
¹⁴ In 2017, PG&E’s resource portfolio was 79% GHG free including 33% from eligible renewable resources plus 46% from nuclear and large hydro.

¹⁵ “Application of Pacific Gas and Electric Company (u 39 e) for approval of the retirement of diablo canyon power plant, implementation of the joint proposal, and recovery of associated costs through proposed ratemaking mechanisms.” Accessed on 10/18/2016 at: <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M166/K001/166001245.PDF>

¹⁶ PG&E website, accessed 10/18/2016 at: https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page

- **RPS Portfolio:** Butte County CCA will match PG&E's projected GHG-free energy supplies.
- **50% Renewable Portfolio:** Butte County CCA will exceed PG&E's projected GHG-free energy supplies by 10 percent each year.
- **75% Renewable Portfolio:** Butte County CCA will exceed PG&E's projected GHG-free energy supplies by 10 percent each year.

It is assumed that the Participants' CCA will not modify its renewable energy or GHG-free achievements to match unexpected or abrupt changes in PG&E's portfolio. Exhibit 9 below shows the GHG-free targets for the resource portfolios.



In order to achieve the GHG-free targets shown above, it was assumed that a portion of the market power purchases used to serve load in each resource portfolio are sourced to GHG-free resources and that the CCA pays a premium for market PPAs sourced to GHG-free resources. A calendar year 2020 GHG-free premium of \$2/MWh was assumed based on a survey of other CCAs. The GHG-premium is assumed to escalate annually by 3.75 percent, the same escalation rate applied to wholesale market prices. Given the assumed escalation rate, the premium paid for GHG-free power increases from \$2/MWh in 2020 to \$4/MWh in 2039. Including GHG-free premiums in the costs associated with a portion of market PPA purchases results in a \$1 to \$1.5/MWh increase in the 20-year levelized cost of each portfolio. Again, the portion of market PPAs that are sourced to GHG-free resources in each portfolio is based on the difference between the GHG targets (shown above in Exhibit 9) and the amount of renewable energy procured in each portfolio (shown above in Exhibit 8).

Resource Options

For each of the resource portfolios, a combination of resources has been assumed in order to meet the renewable energy target, resource adequacy targets, and ancillary and balancing requirements. The mix of resources included in each portfolio are for indicative purposes only. The CCA should be flexible in its approach to obtaining the renewable and non-renewable resources necessary to meet these requirements.

Exhibit 10 shows the 20-year levelized resource costs used in this Plan.

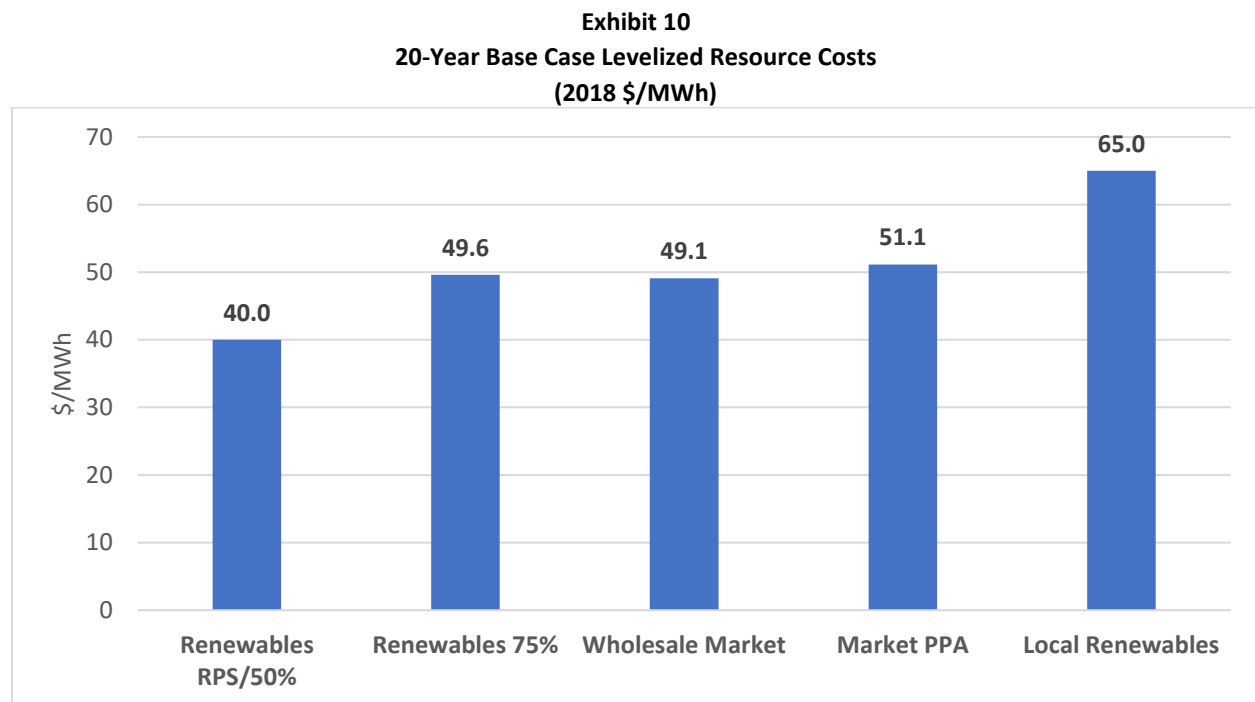


Exhibit 10 above shows a 20-year levelized power purchase agreement (PPA) price of \$40/MWh for renewables under the RPS Portfolio and 50% Renewables Portfolio and a price of \$49.6/MWh under the 75% Renewables Portfolio. The higher price in the 75% Renewables Portfolio is in recognition of the fact that the CCA may have to sign contracts for higher priced renewables in order to find a sufficient supply of renewables to meet the 75 percent target. The levelized resource costs shown above are for power only and do not include any ancillary services, scheduling or other costs.

Exhibit 10 also shows both spot wholesale market and market PPA costs. Market PPA costs are greater than spot wholesale market costs in recognition of the cost of the PPA supplier absorbing the market fuel price risk associated with providing a long-term PPA contract price.

The capacity factor for market PPA purchases is assumed to be 100 percent (flat monthly blocks of power). Capacity factor is equal to average monthly generation divided by maximum hourly generation in a given month. A 100 percent capacity factor implies that the same amount of

power was purchased or generated each hour. The average monthly capacity factor for renewable resources and local renewables is assumed to be 33 percent based on the capacity factors of existing renewable resources operating in California.

As shown above, the base case 20-year levelized cost of renewable resources is less than the 20-year levelized cost of market purchases. The cost of solar projects has declined significantly over the past few years. The \$40/MWh projection is based on the cost of relatively new wind and solar projects that reflect the decreased costs, on a \$/watt basis, of solar projects. These cost estimates include changes to federal incentives for renewable resource development. Specifically, the Production Tax Credit (PTC) is set to expire in 2019 while the Investment Tax Credit (ITC), which is available to utility scale solar projects, will ramp down from a 30 percent credit in 2019 to 10 percent credit in 2022 where it will remain. Credit values are based on the resource output. Even with the ramp down of the PTC and ITC, project costs are expected to continue to decrease in future years.¹⁷

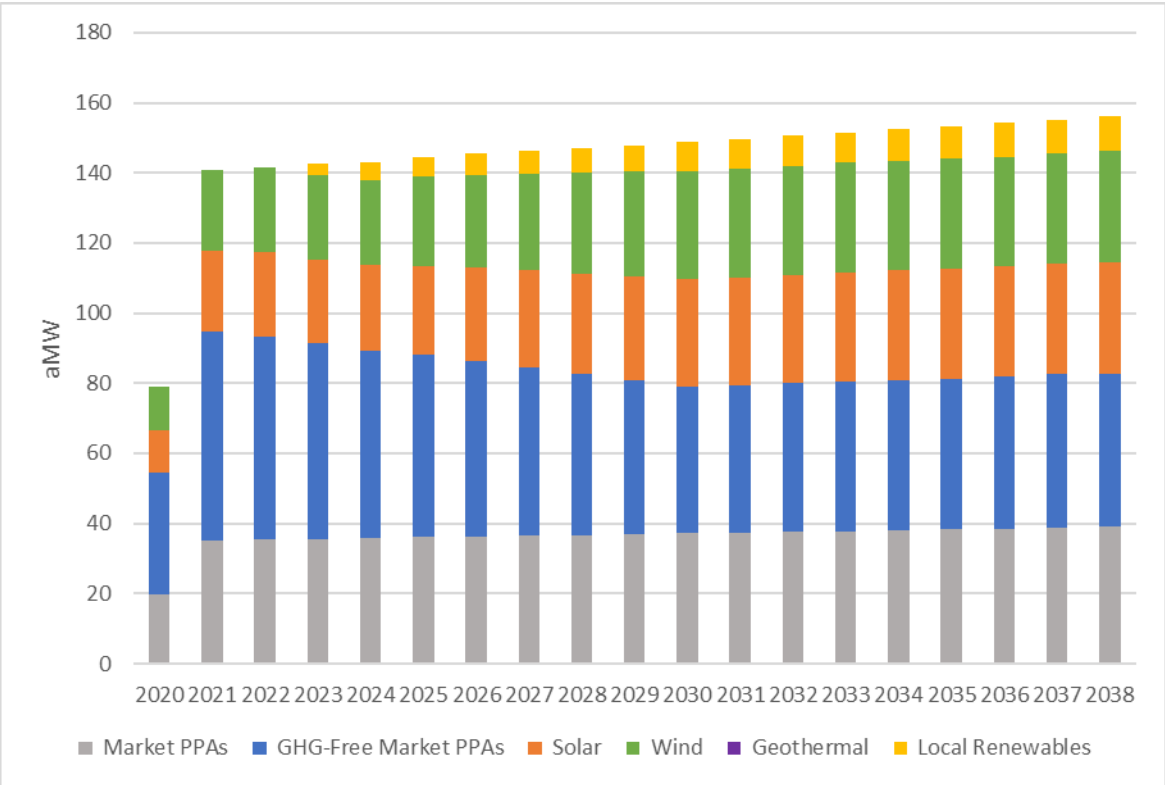
On a \$/watt basis, the cost of smaller scale solar projects is greater than the cost of large scale solar projects. The \$65/MWh cost associated with local renewables shown in Exhibit 10 reflects this trend. The advantage of local renewable projects is lower transmission costs and less stress on the congested transmission grid.

RPS Portfolio

Exhibit 11 below shows the power supply portfolio used to serve load in the RPS Portfolio scenario

¹⁷ Page 4 of “On the Path to Sunshot: Executive Summary”, Solar Technologies Office, U.S. Department of Energy, <https://energy.gov/sites/prod/files/2016/05/f31/OTPSS%20-%20Executive%20Summary-508.pdf>

Exhibit 11
RPS Portfolio: Meet RPS Targets and Match PG&E’s Projected GHG-Free Achievements (aMW)
4 Participants



*Average annual megawatt or aMW is equal to annual megawatt-hours divided by the number of hours in a year.

The share of renewable energy increases each year along with California’s RPS requirements. In all three portfolios it is assumed that local renewables will begin serving load in year 5 of operation (2023). It is assumed that 10 percent of renewable energy is purchased via local renewables, as opposed to non-local large-scale renewables, in all three portfolios.

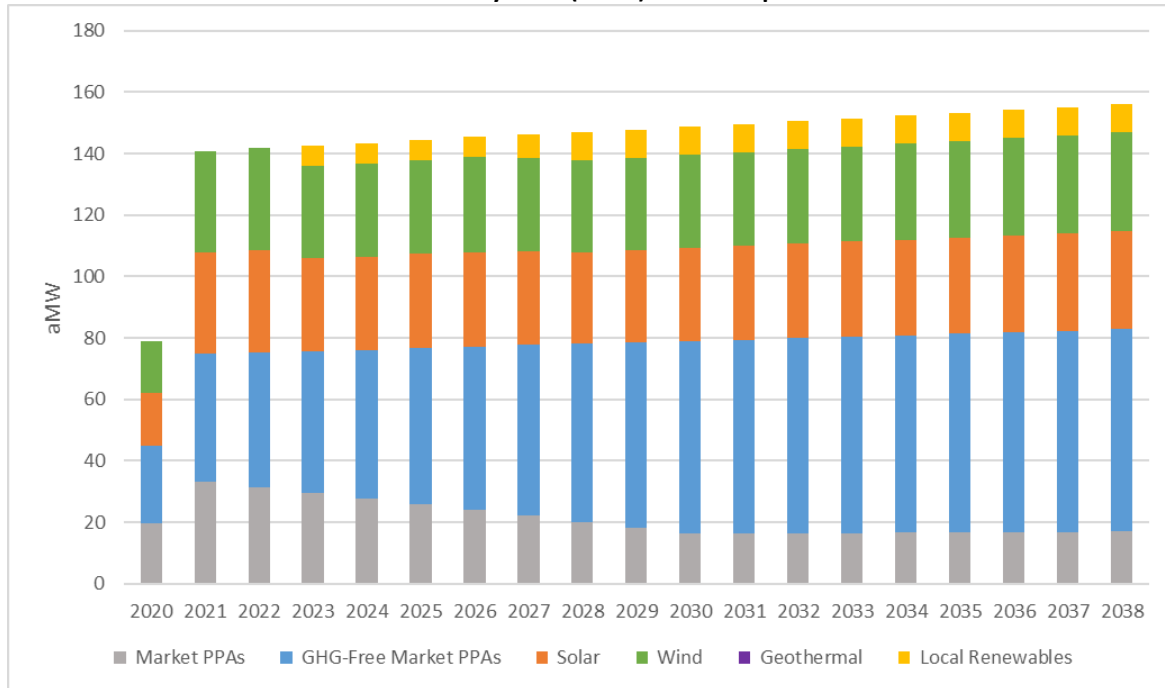
The source of the “market” purchases shown above in Exhibit 11 is unspecified. These market purchases could ultimately be sourced from a mix of renewable and non-renewable resources based on the availability of surplus resources in California and resources bid into CAISO for balancing energy purchases. For this Plan’s purposes, “market” purchases are assumed to be sourced to non-renewable generating facilities.

The “GHG-Free Market PPAs” purchases shown above in Exhibit 11 are market purchases that are sourced to hydroelectric generating facilities. These hydro purchases would be procured through long-term PPAs. The cost of hydro power is assumed to be greater than the cost of unspecified market purchases. The premium applied to the cost of hydro power is discussed above in the “Resource Portfolios” section.

50% Renewables Portfolio

In this portfolio, the 50 percent renewable energy purchase requirement in the RPS is effectively moved up 11 years from 2030 to 2020. As shown below in Exhibit 12 the eligible renewable resource purchases (solar, wind, local) are greater than the eligible renewable resources above in Exhibit 11.

Exhibit 12
50% Renewable Portfolio: 50% of Load Served by Renewables in All Years and 95% of Load Served by GHG-Free Resources by 2030 (aMW) – 4 Participants



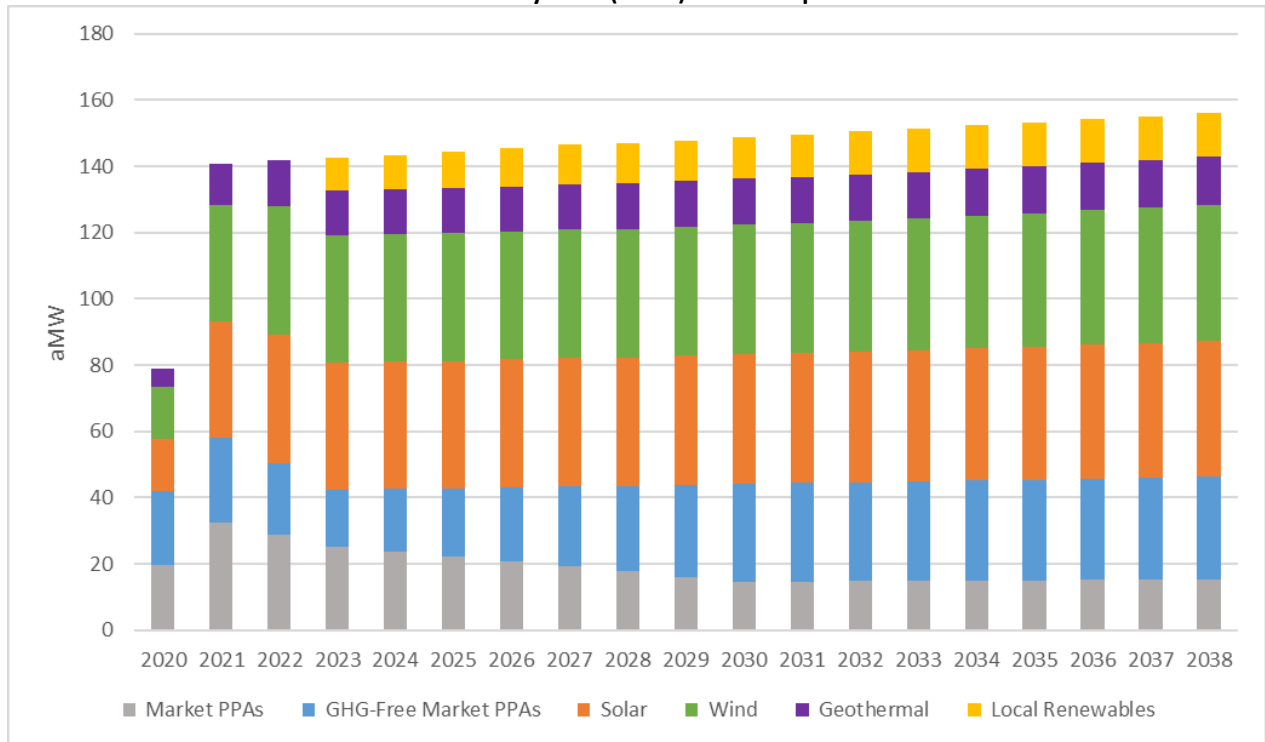
*Average annual megawatt or aMW is equal to annual megawatt-hours divided by the number of hours in a year.

75% Renewables Portfolio

In this portfolio, the 75 percent of retail load is served by renewable resources beginning in 2023. It is assumed that the renewable energy target would begin at 50 percent in 2019 and ramp up to 75 percent by 2023 (as shown in Exhibit 13 below). As shown below in Exhibit 13 the eligible renewable resources (solar, wind, and geothermal) are a larger share of the resource mix compared with the previous two portfolio scenarios.

Exhibit 13

75% Renewable Portfolio: 75% of Load Served by Renewables in All Years and 95% of Load Served by GHG-Free Resources by 2030 (aMW) – 4 Participants

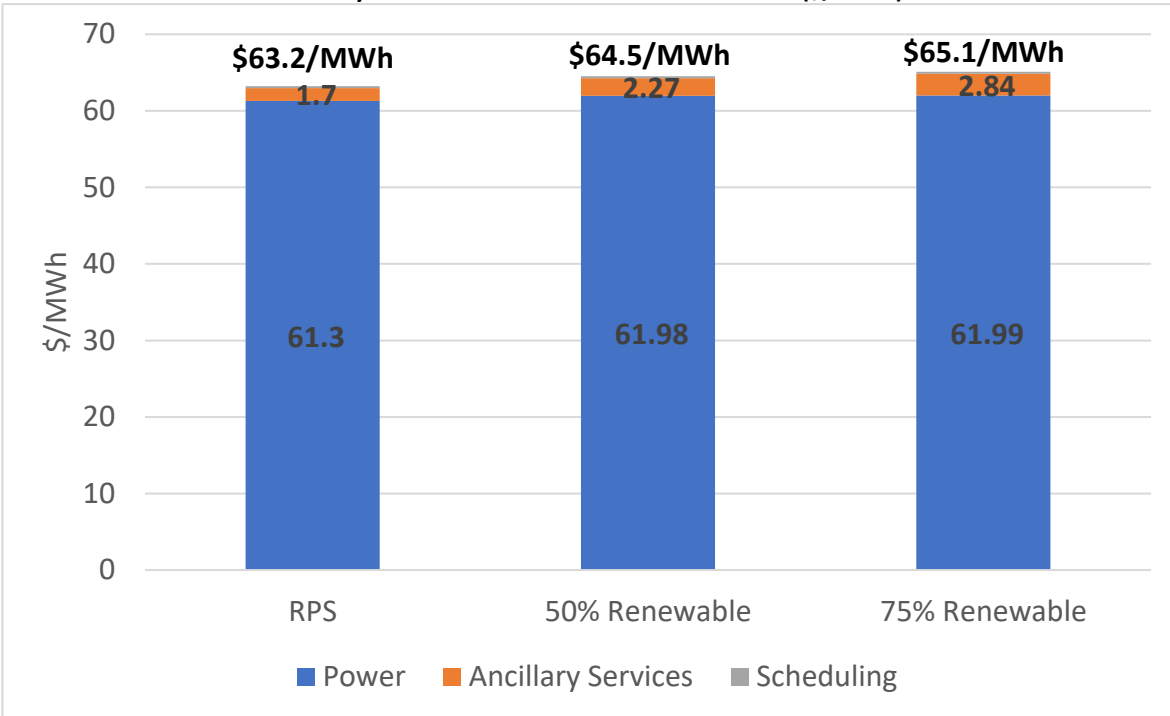


*Average annual megawatt or aMW is equal to annual megawatt-hours divided by the number of hours in a year.

20-Year Levelized Portfolio Costs

The 20-year levelized costs have been calculated based on the base case assumptions detailed above regarding resource costs and resource compositions under the three portfolios. Exhibit 14 shows a breakdown of power, ancillary service and scheduling costs associated with each portfolio.

Exhibit 14
20-year Levelized Base Case Portfolio Costs (\$/MWh)



As shown above, power costs under the three portfolios considered are fairly similar. There is not a large variance in power costs between these portfolios because the majority of power is supplied by market PPAs and renewable energy purchases, which are very close in cost.

Resource Strategy

The Participants' electric portfolio may be managed by a third-party vendor, at least during the initial implementation period. Through a power services agreement, the Participants can obtain full service requirements electricity for its customers, including providing for all electric, ancillary services and the scheduling arrangements necessary to provide delivered electricity. After operations have begun, the Participants may decide to sign long-term PPAs, which may minimize the CCAs exposure to market prices and provide the CCA with the ability to increase the renewable percentage over time. Additionally, it is recommended that the Participants engage with a portfolio manager or schedule coordinator, who will have expertise in risk management and will work with the CCA to design a comprehensive risk management strategy for long-term operations. A portfolio manager or schedule coordinator will actively track the CCA's portfolio and implement energy source diversification, monitor trends and changes in economic factors that may impact load, and identify opportunities for dispatchable energy storage systems or automatic controls for managing energy needs in real-time with the CAISO.

Alternative Supply Options

The Participants should plan to establish a Net Energy Metering (“NEM”) program for qualified customers in their service territory to encourage Distributed Energy Resources (DER). In addition, the CCA can work with State agencies and PG&E to promote deployment of DER within Butte County, with the goal of maximizing use of the available incentives that are funded through current utility distribution rates and public goods charges. CCAs can provide energy efficiency services as program administrators after they have provided a business plan approved by the CPUC. The funds for the programs come from the electric public benefit charge and can be used for program administration, advertising, and incentives.

The Participants may also establish a program which offers a combination of retail tariffs, rebates, incentives and other bundled offerings intended to increase customer participation in demand-side programs, including renewable DERs, energy storage, energy efficiency, demand response, electric vehicle charging, and other clean energy benefits. The Participants would work with State agencies and PG&E to promote deployment of DERs in specific and targeted locations throughout PG&E’s distribution grid in order to help support efficient grid operations and maintenance as part of development of the future “smart grid.”

Butte County CCA Cost of Service

This section of the Plan describes the financial pro forma analysis and cost of service for a CCA for the Participants. It includes estimates of staffing and administrative costs, consultant costs, power supply costs, uncollectable charges, and PG&E charges. In addition, it provides an estimate of start-up working capital and longer-term financial needs.

Cost of Service for Butte County CCA “Base Case” Operations

The first category of the pro forma analysis is the cost of service for a CCA for the Participants’ operations. To estimate the overall costs associated with CCA operations, the following components have been included:

- Power Supply Costs
- Non-Power Supply Costs
 - Staffing
 - Administrative costs
 - Consulting support
 - PG&E billing and metering charges
 - Uncollectible costs
 - Reserves
 - New programs funding
 - Financing costs
- Pass-Through Charges from PG&E
 - Transmission and distribution charges
 - Power Charge Indifference Adjustment (PCIA) charge
 - Franchise Fee Surcharge

Once the costs of CCA operations have been determined, the total costs can be compared to PG&E’s projected rates. A detail of the various costs noted below is included in Appendix C.

Power Supply Costs

A key element of the cost of service analysis is the assumption that electricity will be procured under a power purchase arrangement (PPA) for both renewable and non-renewable power for an initial period. Power supply will likely be obtained by the CCA’s procurement consultant prior to commencing operations. The products required from the third-party procurement are energy, capacity (System, Local and Flexible RA products), renewable energy, GHG-free energy, load forecasting, CAISO charges (grid management and congestion), and scheduling coordination. The calculated 20 year levelized cost of electric power supply, including the cost of the scheduling coordinator and all regulatory power requirements, is estimated between \$63 and \$65 per MWh.

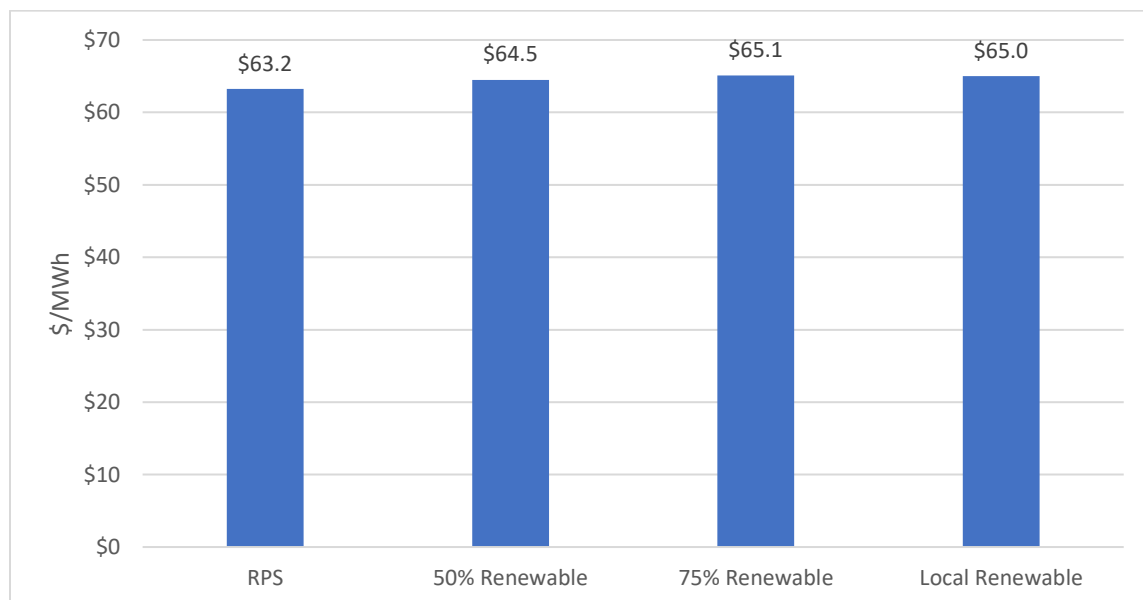
This price represents the price needed to meet the load requirements of the CCA customers. The variation in price is a function of the desired level of renewable resources.

Three power supply scenarios are modeled for this Plan. The three scenarios are:

- Power supply meeting PG&E current RPS plan
- Power supply meeting 50% renewable resources and 80-91% GHG-free
- Power supply meeting 75% renewable resources and 80-91% GHG-free

To further local economic development goals, the Plan assumes that each of the scenarios will include a minimum of 10 MW and a maximum of 30 MW of local renewables. The Plan assumes that “local renewable” power is primarily composed of smaller scale solar projects constructed in Butte County. On a \$/watt basis, the cost of small-scale solar projects (assumed to be 500 kW to 5 MW) is approximately \$25 per MWh greater than the cost of larger, utility-scale solar projects. A comparison of the three portfolios to the cost of adding in discrete amounts of local renewable is shown in Exhibit 15. Exhibit 15 illustrates that if local renewables are not developed, average power costs will likely be lower.

Exhibit 15
Portfolio and Local Renewables Cost Comparison, 20-Year Levelized



Non-Power Supply Costs

While power supply costs make up the vast majority of costs associated with operating the Participants' CCA (roughly 80-90 percent depending on the portfolio scenario), there are additional cost components that must be considered in the pro forma financial analysis. These additional non-power supply costs are noted below.

Estimated Staffing Costs

Staffing is a key component of the operating a CCA. This Plan assumes the Participants will proceed with the JPA operating model. All staffing, consultant, and infrastructure assumptions are detailed in Exhibits 16, 17 and 18. The Participants' CCA will have discretion to distribute operational and administrative tasks between internal staff and external consultants in any combination. For this Plan, two scenarios are explored that are considered to be at the maximum and minimum of this spectrum. The first option involves hiring internal staff incrementally to match workloads involved in forming the CCA, managing contracts, and initiating customer outreach/marketing during the pre-operations period (Full Staff Scenario). In the alternative approach, the CCA would hire just three staff internally and contract out the remaining work to consultants (Minimum Staff Scenario). Throughout the rest of this Plan, it is assumed that the Participants' CCA will opt for the Full Staff Scenario to be conservative in the Plan's economic analysis, but both options are discussed. The Full Staff Scenario is likely the most costly option that the CCA could pursue.

Full Staff Scenario

Exhibit 16 provides the estimated staffing budgets for a full staff CCA scenario for the start-up period (Pre-launch in 2020 through full operating in 2021). Staffing budgets include direct salaries and benefits. Prior to the CCA's launch, it is assumed an operating team will be employed per the example of other CCAs in California thus far to implement the launch of the CCA program. This operating team typically includes one Executive Director, Director of Marketing and Public Affairs, and Account Management Staffing. The remaining functions will be filled as quickly as possible.

Exhibit 16
CCA Staffing Plan

Number of Staff	2020*	2020
	Pre-launch	Launch Phase 1 and Phase 2
Executive Director	1	1
Director of Marketing and Public Affairs	1	1
Account Service Manager	1	1
Account Representative	1	1
Communication Specialist	1	1
Director of Power Resources	0	1
Director of Administration and Finance	0	1
Community Outreach Manager	0	1
Power Supply Compliance Specialist	0	1
Administrative Analyst	0	1
Total Number of Employees	5	10
Total Staffing Costs	\$248,125	\$1,506,422

*Represents only partial year.

Based on this staffing plan, the Participants' CCA will initially employ 5 staff members. Once the CCA enters Phase 1, the first phase where the CCA begins to serve load, it is anticipated that staffing will increase to approximately 10 employees. The staffing plan is not expected to change significantly if fewer than four Participants join the CCA. There may be some opportunity to consolidate positions or hire third party assistance, this is discussed in more detail below. The management positions to be hired by the CCA over the first year are described below:

Executive Director

The Executive Director will be responsible for all aspects of launching and operating a highly-visible start-up organization and building it into an innovative enterprise that benefits Butte County residents and businesses. The Executive Director will direct all activities of the Butte County CCA including operations, resource procurement and planning, energy infrastructure development, finance, legal and regulatory affairs, external communications and strategic planning. The Executive Director will report to the CCA's Board and will work with numerous stakeholders including County residents, businesses, labor representatives, government officials, and experts in the fields of energy and utility services.

Director of Power Supply

The Director of Power Supply will oversee the day-to-day power supply operation of the CCA. In particular, this staff position will oversee hedging and power procurement, resource portfolio strategy and other resource planning and compliance analysis. Behind-the-meter CCA programs will also be coordinated through this position.

Director of Administration and Finance

The Director of Administration and Finance oversees the CCA's budgets and accounting functions. In addition, this person will develop annual budgets, rates, and credit policies for approval by the governing body. Managing the overall financial aspects of the CCA is expected to be a significant work activity.

Director of Marketing and Public Affairs

The Director of Marketing and Public Affairs is responsible for the enrollment and notification of new customers. In addition, this staff person will market the CCA, and provide ongoing communication with the CCA's communities and customers. A significant amount of customer service and key account representation will be necessary in addition to regular marketing services. This position will be the point person for the outsourced data management and customer service consultants.

Future Staff

As additional customers join the CCA, duties can be shifted from third-party consultants to in-house staff if internal staffing is desired and/or more cost effective and as directed by CCA management.

Minimum Staff Scenario

To build the minimum staff possible to run the Participants' CCA, all tasks described above would be completed by consultants on a contract basis. It is assumed that these contracts would be managed by the Executive Director and two in-house staff, such as the Regulatory and Finance managers. In addition, consultants would have to be hired to manage the tasks not managed by full-time staff. It is anticipated that the cost difference between all-in staff cost and consultant cost is minimal. The projected savings difference under each option are therefore not anticipated to be significant.

Administrative Costs

Infrastructure or overhead needed to support the organization includes computers and other equipment, office furnishings, office space, utilities and miscellaneous expenses. These expenses are estimated at \$70,000 during program pre-startup for the full staffing scenario. Office space and utilities are ongoing monthly expenses that will begin to accrue before revenues from program operations commence and are therefore assumed to be financed. If existing County office space is available at a lesser price¹⁸, rates will be lower and CCA-related savings higher.

¹⁸ If the CCA function is housed in a city or county building, then it will need to pay its prorated share of debt service for any associated bonds

It is estimated that the per employee start-up cost is approximately \$7,000. This expense covers computer and furniture needs. An additional annual expense of \$15,000 for office space, and approximately \$10,000 per year in office supplies and utilities costs is expected. Miscellaneous start-up costs of \$100,000 are estimated for 2019 to address the general cost of mailing notifications, meetings, communication and other start-up activities. In addition, it is assumed that computers will need to be replaced every 5 years. Finally, additional miscellaneous expense budgets are estimated for general start-up costs in 2019. All administrative costs for start-up are shown in Exhibit 17.

Exhibit 17		
Estimated Infrastructure Cost by Year (Full-Staff Scenario)		
	2020	2021
Infrastructure Costs		
Computers	\$50,000	\$0
Furnishings	\$20,000	\$0
Office Space	\$15,000	\$15,300
Utilities/Other Office Supplies	\$10,000	\$10,200
Miscellaneous Expenses	\$100,000	\$100,000
Total Infrastructure Costs	\$195,000	\$127,500

While the minimal staffing option would save some infrastructure costs, it is anticipated that the consultant staff would include similar cost. It is therefore not anticipated that the minimal staff option would result in any significant cost differences.

Outside Consultant Costs

Consultant costs include outside assistance for legal and regulatory work, communication and marketing, data management, financial consulting, technical consulting and implementation support. CCA data management providers supply customer management system software, and oversee customer enrollment, customer service, as well as the payment processing, accounts receivable and verification services. In addition, estimated funding for other consulting support (such as HR, legal, customer service, etc.) is provided. Exhibit 18 shows the estimated consultant costs during the first three years. Assumptions about consultant fees are provided on a monthly and annual basis in Appendix C.

Exhibit 18			
Estimated Consultant Costs by Year			
	2020	2021	2022
Legal/Regulatory*	\$270,000	\$367,200	\$374,544
Communication	\$183,333	\$102,000	\$104,040
Financial Consulting**	\$500,000	\$510,000	\$520,200
Technical Consultant	\$120,000	\$122,400	\$124,848
Other Consulting/County Functions	\$300,000	\$153,000	\$156,060
Total Consultant Costs	\$1,448,333	\$1,356,600	\$1,383,732

*Legal/regulatory consulting refers only to legal counsel regarding CPUC compliance, filings, etc.

**Financial consulting includes legal fees for counsel on CCA financing.

The estimate for each of the services is based on costs experienced by other CCAs. Consultant costs are increased by inflation every year. It should be noted that these costs are estimated for the Full Staff Scenario. Under the Minimal Staff Scenario, consultant costs are increased such that total CCA operational costs remain the same under each staffing scenario.

PG&E Billing & Metering Costs

PG&E provides billing and metering services to the CCA based on published tariffs. The estimated costs payable to PG&E for services related to the Participants' CCA start-up include costs associated with initiating service with PG&E, processing of customer opt-out notices, customer enrollment, post enrollment opt-out processing, and billing fees.

Customers who establish service with the CCA will be automatically enrolled in the program and have 60 days from the date of enrollment to customer opt-out of the program. Such customers will be provided with two opt-out notices within this 60-day post enrollment period. The first notice will be mailed to customers approximately 60 days prior to the date of automatic enrollment. A second notice will be sent approximately 30 days later. Following automatic enrollment, two additional opt-out notices will be provided within the 60-day period following customer enrollment. A total of four notices will be sent to each customer. It is estimated that the billing charges will be approximately \$0.25 million for 2020 and \$0.56 million for 2021, as shown in Exhibit 19. These transaction fees assume all 4 Participants are included in the CCA.

Exhibit 19 Utility Transaction Fees – 4 Participants			
	2020	2021	2022
Total PG&E Transaction Fees	\$252,845	\$559,142	\$562,832

Uncollectible Costs

As part of the operating costs, the CCA must account for customers that do not pay their electric bill. While PG&E will attempt to collect funds, approximately 0.5 percent of revenues are estimated as uncollectible.¹⁹ This cost is therefore added to the CCA revenue requirement or budget.

Financial Reserves

The Participants' CCA is assumed to receive capital financing during its start-up through Phase 2 (Phase 2 is where all customer classes are now being served by the CCA). After a successful launch, the CCA must build up a reserve fund that is available to address contingencies, cost

¹⁹ Based on historic IOU uncollectible revenue as percent of total revenue.

uncertainties, rate stabilization or other risk management factors faced by the CCA. Therefore, this Plan assumes that the CCA will begin building its reserve starting from its launch. After five full operating years, it is estimated that the assumed rate will have accumulated enough reserve for three months of expenses. This level of reserves is based on industry standards for electric utilities, and will provide financial stability and assist the CCA in obtaining favorable interest rates if additional financing is needed. After that point, revenues that exceed costs can begin to finance a rate stabilization fund, new local renewable resources, additional economic development projects and/or lower rates. These financial reserves, assuming all 4 Participants form the CCA, are documented in Appendix B.

New Programs/Projects Costs

Once the reserve fund has reached its target, the revenue requirement includes budget for new customer programs including local renewable resources projects, distributed generation support, additional energy efficiency program offering, etc. Rate design programs, such as Net Energy Metering and Economic Development rates, can be implemented sooner as these do not require large capital investments.

Financing Costs

In order to estimate financing costs, a detailed analysis of working capital needs as well as start-up capital is estimated. Each component is discussed below.

Cash Flow Analysis and Working Capital

This cash flow analysis estimates the level of working capital that will be required until full operation of the CCA is achieved. For the purposes of this Plan, it is assumed that the CCA pre-operations begin in January 2019. In general, the components of the cash flow analysis can be summarized into two distinct categories: (1) Cost of the CCA operations, and (2) Revenues from CCA operations. The cash flow analysis identifies and provides monthly estimates for each of these two categories. A key aspect of the cash flow analysis is to focus primarily on the monthly costs and revenues associated with the CCA and specifically account for the transition or “phase-in” of the CCA customers. The cash flow analysis assumes the phase-in schedule for Butte County CCA shown in Exhibit 20.

Exhibit 20
Launch Schedule – 4 Participants

Phase	Start	Eligibility	Total Accounts Served	Percentage of Total Load Served
1	April 2020	Commercial, Industrial, Lighting, & Agriculture	14,000	45%
2	August 2020	Residential	88,500	55%

The cash flow analysis also provides estimates for revenues generated from the CCA operations or from electricity sales to customers. In determining the level of revenues, the cash flow analysis assumes the customer phase-in schedule noted above, and assumes that Butte County CCA provides a discount of the existing PG&E rates for each customer class that corresponds to a total bill discount of 2%.

The results of the cash flow analysis provide an estimate of the level of working capital required for the CCA to move through the pre-operations period. This estimated level of working capital is determined by examining the monthly cumulative net cash flows (revenues minus cost of operations) based on assumptions for payment of costs by the CCA, along with an assumption for when customer payments will be received. The cash flow analysis assumes that customers will make payments within 60 days of the service month, and that the CCA will make payments to suppliers within 30 days of the service month. This analysis is somewhat conservative because customer payments begin to come in soon after the bill is issued, and most are received before the due date. At the same time, some customer payments are received well after the due date. The 30-day net lag is a conservative assumption for cash flow purposes.

For purposes of determining working capital requirements related to power purchases, the CCA will be responsible for providing the working capital needed to support electricity procurement unless the electricity provider can provide the working capital as part of the contract services. In addition, the CCA will be obligated to meet working capital requirements related to program management. While the CCA may be able to utilize a line of credit, for this Plan it is assumed that this working capital requirement is included in the financing associated with start-up funding.

A summary of working capital needs is presented below on Exhibit 21. Working capital line items are described in more detail below the Exhibit.

Exhibit 21
Working Capital Needs – 4 Participants

	2020 Pre-Launch/Phase 1	2020 Launch Phase 2
Bonding & Security Requirement (CPUC)	\$0.1 million	-
PG&E Program Reserve	\$0.4 million	-
Start-up Costs	\$1.3 million	-
Working Capital (Cash Flow)	\$1.3 million	\$3 million
Total Capital Needed	\$3.1 million	\$3 million

- Bonding & Security Requirement (CPUC) – Insurance or posting of a bond sufficient to cover reentry fees imposed on customers that are involuntarily returned to PG&E service under certain circumstances.
- PG&E Program Reserve – Required and equivalent to reentry fee for voluntary returns to the IOU.
- Start-up Costs – Includes capital for staffing, consultants, office infrastructure and building, collateral, or other start-up costs.
- Working Capital – requirements to ensure positive cash flow so that there is not gap between power bill payment and retail rate revenue delivery.

For comparison, Marin Clean Energy (MCE) started with \$3.3 million in pre-launch funding²⁰ and is now operating with \$21.7 million in working capital.²¹ MCE serves electrical load roughly equivalent to 3.5 percent of Butte County CCA's estimated load.²² Similarly, Sonoma Clean Power (SCP) acquired \$6.2 million in pre-launch capital,²³ and now maintains working capital reserves of \$25 million²⁴ while serving five percent of the CCA's estimated load.²⁵ Because all CCA's are exposed to similar levels of fixed costs at launch, the pre-launch funding in Sonoma and MCE's cases are close to that calculated for Butte County CCA. The working capital needs after launch assumed in this Plan are in line with the experience of successfully operating CCAs on a \$/GWh basis.

²⁰<https://www.mcecleanenergy.org/wp-content/uploads/2016/01/MCE-Start-Up-Timeline-and-Initial-Funding-Sources-10-6-14-1.pdf>

²¹<https://www.mcecleanenergy.org/wp-content/uploads/2016/09/MCE-Audited-Financial-Statements-2015-2016.pdf>

²²https://www.mcecleanenergy.org/wp-content/uploads/2016/01/Marin-Clean-Energy-2015-Integrated-Resource-Plan_FINAL-BOARD-APPROVED.pdf

²³ <https://sonomacleanpower.org/wp-content/uploads/2015/01/2014-SCPA-Audited-Financials.pdf>

²⁴ <https://sonomacleanpower.org/wp-content/uploads/2015/01/2016-05-SCP-Compiled-Financial-Statements.pdf>

²⁵ <https://sonomacleanpower.org/wp-content/uploads/2015/01/2015-SCP-Implementation-Plan.pdf>

Total Financing Requirements

The start-up of the Participants' CCA will require a significant amount of start-up capital for three major functions: (1) staffing and consultant costs; (2) infrastructure costs (office space, computers, etc.) and (3) CPUC Bond and PG&E security deposits.

Staffing, consultant and other program initiation costs have been discussed previously. In addition, the Public Utilities Code requires demonstration of insurance or posting of a bond sufficient to cover reentry fees imposed on customers that are involuntarily returned to PG&E service under certain circumstances. PG&E also requires a bond equivalent to the reentry fee for voluntary returns to the IOU. This corresponds to the fees outlined in the CCA-SF rate schedule from PG&E, which are \$4.24/customer for 2018. In addition, the bond must also cover incremental procurement costs.

For the Participants' CCA, the total financing requirement, including working capital, during the pre-launch to full operations, are estimated to be approximately \$3.1 million, with approximately another \$3 million following full enrollment. With more flexible power payment terms and/or customer payments of less than 60 days, capital requirements can be reduced by up to \$3 million.

Current CCA Funding Landscape

The CCA market is rapidly expanding with increasingly proven success. To date, there are more than 18 operational CCAs in California that have demonstrated the ability to generate positive operating results. The early financial institutes were community banks in the CCA service territory, but now a mix of regional and large national banks have shown increased levels of interest. This expanded interest should give the CCA comfort that it will have access to an adequate number of potential financial counterparties.

As CCAs have successfully launched across the State and a more robust data set of opt-out history becomes available, the financial community has been more comfortable in providing credit support to CCAs. Most programs that have launched to date and those in development have relied on a sponsoring entity to provide support for obtaining needed funds. This support has come in varied forms which are summarized in Exhibit 22.

Exhibit 22
Forms of Support

CCA Name	Pre-Launch Funding Requirement ¹	Funding Sources
Marin Clean Energy	\$2- \$5 million	Startup loan from the County of Marin, individual investors, and local community bank loan.
Sonoma Clean Power	\$4 - \$6 million	Loan from Sonoma County Water Authority as well as loans from a local community bank secured by a Sonoma County General Fund guarantee.
CleanPowerSF	~\$5 million	Appropriations from the Hetch Hetchy reserve (SFPUC).
Lancaster Choice Energy	~\$2 million	Loan from the City of Lancaster General Fund.
Peninsula Clean Energy	\$10 - \$12 million	Loans from Barclays and San Mateo County.
Silicon Valley Clean Energy	\$2.7 million	Loans from County of Santa Clara and City members
Clean Power Alliance	\$41 million	\$10 million loan from Los Angeles County and \$31 million Line of Credit from River City Bank.
East Bay Clean Energy	\$50 million	Revolving Line of Credit from Barclays.

¹ Source: Respective entity websites and publicly available information. These funds do not include all funds needed or cover a consistent period.

Start-up financing needs for the CCA are estimated at \$3.1 million. A review of the current options for obtaining funds for the startup costs/initial phases is detailed below:

Collateral Arrangement from Butte County or City – As an alternative to a direct loan a CCA Participant, the Participants could establish an escrow account to backstop a lender’s exposure to the CCA. The Participants would agree to deposit funds in an interest-bearing escrow account which the lender could tap should the CCA revenues be insufficient to pay the lender directly.

Revenue Bond Financing – This is not a feasible option at this point given the start-up nature of the CCA and no credit rating.

Direct Loan from Butte County or City –The County or City could loan funds from the General Fund for all or a portion of the pre-launch through Phase 1 needs. The County or City would be secured by the CCA revenues once launched. The County or City would likely assess a risk-appropriate rate for such a loan which is likely higher than the County or City earns for funds otherwise invested. This rate is estimated to be 4.0 percent to 6.0 percent per annum.

After start-up additional funding may be obtained through alternative mechanisms including:

Loan from a Financial Institution without Support – Silicon Valley Clean Energy Authority (SVCEA) was able to use this option to fund ongoing working capital. After members funded a total of \$2.7 million in start-up funds, SVCEA obtained a \$20 million line of credit without collateral.

Vendor Funding – The CCA can pursue arrangements with its power suppliers to eliminate or reduce the need for or size of funding for start-up and operations. This could come in a number of forms such as a “lockbox” approach with a power provider. However, this approach is less

transparent and the associated cost may outweigh the benefit of eliminating or reducing the need for a bank facility.

CCA Financing Plan

While there are many options available to the CCA for financing, the initial start-up funding is assumed to be provided via short-term financing. The CCA will recover the principal and interest costs associated with the start-up funding via subsequent retail rates. It is anticipated that the start-up costs will be fully recovered within the first three years of CCA operations.

The anticipated start-up and working capital requirements for the Participants' CCA through Phase 1 are approximately \$3.1 million. Once the CCA program is operational, these costs would be recovered through retail rates. Actual recovery of these costs will be dependent on third-party electricity purchase prices and decisions regarding initial rates for Phase 1 customers.

Additional financing will be needed at the beginning of Phase 2. Depending on market conditions and payment terms established with the third-party suppliers, the loan may need to be increased to approximately \$6.1 million (an additional \$3 million over the start-up and Phase 1 needs) for the start of Phase 2. This number will be refined as the CCA program becomes operational and bids are received from power providers. In addition, the actual repayment period might be shorter given recent CCA experience where repayment periods average 18 to 24 months.

Based on recent information regarding financing options for CCA's, this financial analysis assumes that the CCA can obtain a loan for all \$6.1 million with a term of 5 years at a rate of 5.5 percent. While the term of the loan is assumed to be 5 years, the repayment period assumed is 3 years.

The detail of the base case cash flow analysis is provided in Appendix D.

Products, Services, Rates Comparison and Environmental/Economic Impacts

This section provides a comparison of service and rates between PG&E and the Participants' CCA. Rates are evaluated based on the CCA's total electric total bundled rates as compared to PG&E's total bundled rates. Total bundled electric rates include the rates charged by the CCA, including non-bypassable charges, plus PG&E's delivery charges

Rates Paid by PG&E Bundled Customers

The average customer-weighted PG&E rates have been calculated based on current rate schedules and the CCA's projected customer mix. PG&E's current rates and surcharges have been applied to customer load data aggregated by major rate schedules to form the basis for the PG&E rate forecast.

The average PG&E delivery rate, which is paid by both PG&E bundled customers and Butte County CCA customers, has been calculated based on the forecasted customer mix for the Participants' CCA. For future years, the PG&E rate forecast assumes the delivery costs will increase by 2 percent per year, a conservative assumption given the history of PG&E non-power supply rate increases.

Similarly, the current average power supply rate component for PG&E bundled customers has been calculated based on the estimated CCA customer mix. Finally, the PG&E generation rates have been projected to increase based on the renewable and non-renewable market price forecast, regulatory requirement for RPS, storage requirement, and resource adequacy objectives. It is projected that PG&E-owned resource and renewable escalation will be 0% over the 10-year analysis period, due to Diablo Canyon Nuclear Plant retirement and departing load. PG&E's renewable supply will also grow with the combination of these two factors, and the escalation in the PCIA will slow. It is projected that the main contributors to PG&E's rate increase over time will be market price and variable cost increases. This results in an average annual escalation rate of 0.3 percent over the 10-year analysis period, a conservative assumption. This resultant PG&E power cost and trend is consistent with similar forecasts provided in other CCA feasibility studies.

Rates Paid by CCA Customers

It is anticipated that the CCA's rate designs will initially mirror the structure of PG&E's rates so that similar rates can be provided to CCA's customers and bill comparisons can be made on an apples-to-apples basis. PG&E is moving towards Time-of-Use (TOU) rates for all customers and it is assumed that the CCA will follow this transition initially. In determining the level of CCA rates,

the financial analysis assumes the customer phase-in schedule noted above and that the implementation phase costs are financed via start-up loans.

In addition to paying the CCA's power supply rate, CCA customers will pay the PG&E delivery rate and non-bypassable charges. The non-bypassable charges that are payable to PG&E by the Participants' CCA customers include:

- Power Charge Indifference Adjustment (PCIA)
- Franchise Fee Surcharge

Power Charge Indifference Adjustment

The PCIA is a charge that is designed to keep bundled customers indifferent when other customers leave bundled service and cover any of the IOU's (in this case PG&E) stranded costs associated with unavoidable generation-related costs purchased on behalf of the departing CCA customers. The PCIA is calculated annually by subtracting the market price of wholesale power from the incumbent utility's average cost of power supply in place at the time the CCA customer leaves PG&E based on a methodology determined by the CPUC.²⁶ The CPUC oversees the calculation and methodology every year as part of the annual ERRRA process. The CCA can participate in this process and provide input and objections as needed.

For this Plan, it was assumed in the base case that the PCIA increases by 20 percent annually over the 2018 level for 2019 and 2020. Post-2020, the PCIA is expected to grow based on the inverse of the difference in the growth between PG&E's generation cost and market prices. The PCIA is calculated based on the difference between PG&E's surplus resource cost and the market price. Therefore, as market prices increase more than the cost of surplus resource, PG&E's PCIA rate decreases as their surplus resources become more cost effective relative to market prices. This methodology results in a base case PCIA forecast after 2020 that increases by an average of 2 percent per year over the 10-year period. This resultant PCIA forecast is consistent with PCIA rate forecasts contained in other CCA feasibility studies.

Franchise Fee Surcharge

The franchise fee is a surcharge that PG&E pays cities and counties for the right to use public streets to provide utility services. The franchise fee is a revenue source for municipalities imposed on privately owned utilities. The franchise fee is a "rental" or "toll" for the use of a municipality's streets and poles, as well as for permission to provide service in their jurisdiction. "The Franchise Act establishes that a franchise fee of 2 percent of the franchisees gross annual receipts arising

²⁶ See D.-6-07-030 as modified by D. 11-12-018.

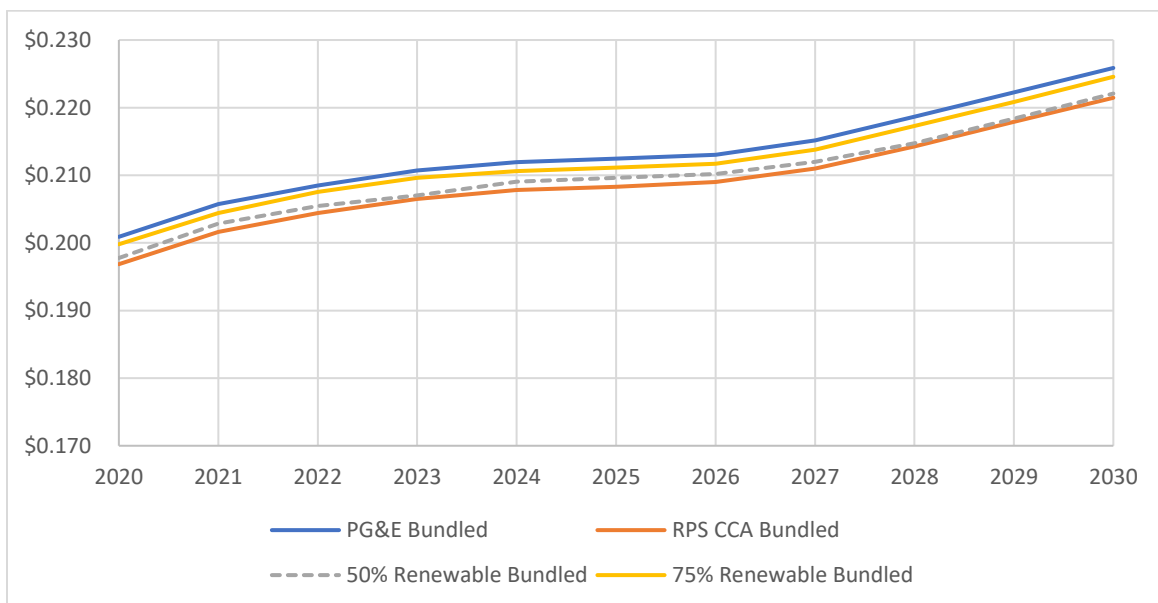
from the use, operation, or possession of the franchise within the city limits²⁷ must be paid to the municipality.

PG&E collects the franchise fee surcharge and passes it to cities and counties. This tax is part of PG&E's current rates and is therefore passed on to the CCA customers as a non-bypassable charge called the Franchise Fee Surcharge. PG&E will continue to collect the Franchise Fee Surcharge for both generation and distribution services and pay the owed revenue to the cities and counties, regardless of the power supplier. The franchise fee is not forecast to change during the Plan horizon. The formation of a CCA does not affect the amount of franchise fee paid to cities and counties, and also does not require the negotiation of a new franchise fee agreement.

Retail Rate Comparison

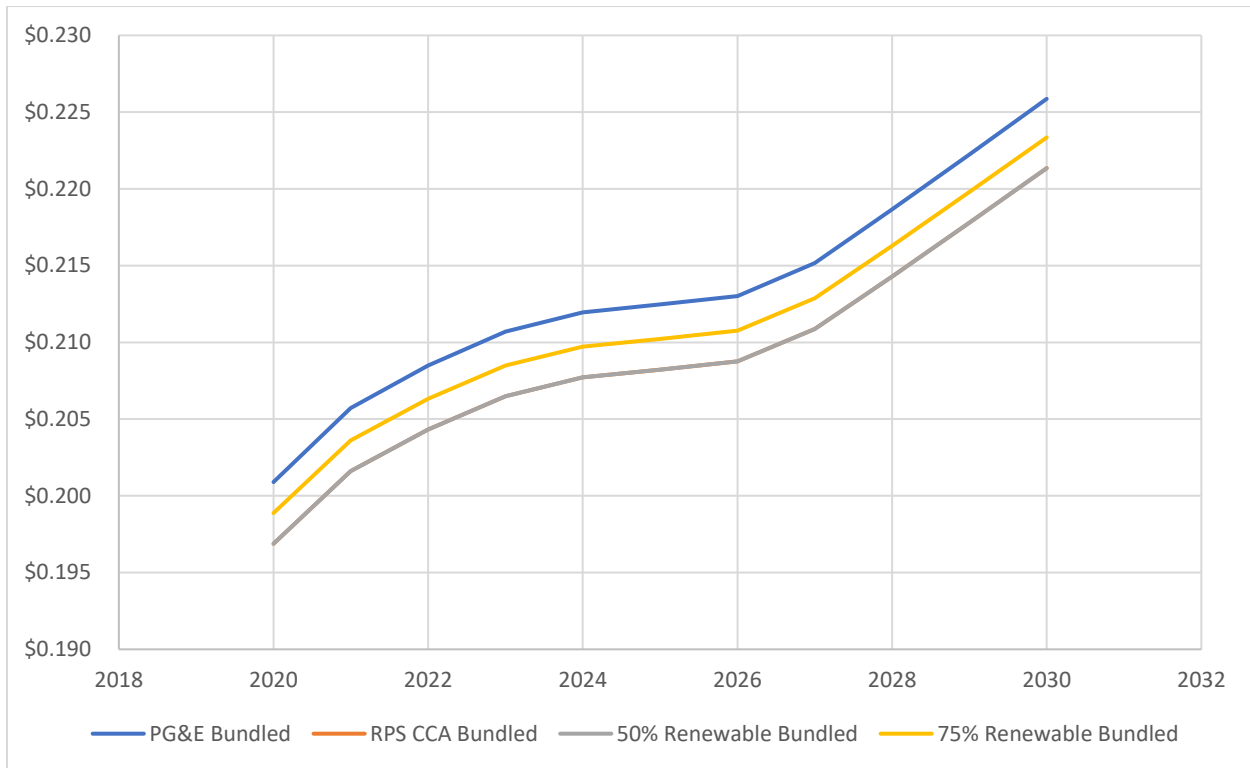
Based on the CCA's projected power supply costs, PCIA and operating costs, and PG&E's power supply and delivery costs, forecasts of CCA and PG&E total rates have been developed. These rates are illustrated below on Exhibits 23A and 23B. Exhibit 23-A shows the minimum rates that the CCA would be able to support while still covering expenses and generating 90-days of reserves. Exhibit 23-B shows the expected rates if the 50 percent renewable product rate is targeted to 2% of the PG&E bundled rate, and the 75 percent renewable product rate is targeted to 0.5% of the PG&E bundled rate.

Exhibit 23-A
Minimum Average Total Retail Rate Comparison – 4 Participant CCA



²⁷ The California Municipal Law Handbook. 2002 Edition

Exhibit 23-B
Average Total Retail Rate Comparison – With Savings Targets – 4 Participant CCA



The CCA RPS residential rate with an equal amount of renewable power to that projected for PG&E can be at most approximately 4 percent lower initially, then can range from 3 to 4.4 percent lower, as can be seen in Exhibit 24. The CCA residential rate with 50 percent renewable power can be up to 4 percent lower initially then can range from 2.9 to 3.9 percent lower, while the rate with 75 percent renewable can be 0.5 percent lower initially then can range from 0.9 to 1.4 percent lower. The rates calculated under this Plan are for comparison to PG&E rates only. Under formal operations, the CCA policymakers will determine the actual rates to be offered to its customers. For the purpose of this Plan, a 2% bill savings target is assumed for the RPS case, 1.5% bill savings in the 50 percent renewables case, and a 0.5% bill savings target is assumed for the 75 percent renewable product.

Based on these estimated CCA discounts off the comparable PG&E rate, Exhibit 24 provides a comparison of the indicative bundled rates for CCA's products based on the projected 2022 PG&E rate. These indicative rates are calculated as a percentage off PG&E's bundled rates.

Exhibit 24
Indicative Rate Comparison in \$/kWh

Rate Class	2022 PG&E Bundled Rate*	Indicative Butte RPS Bundled Rate	Indicative Butte 50% Renewable Bundled Rate	Indicative 75% Renewable Bundled Rate
Residential	0.2033	0.2007	0.2019	0.2035
Small Commercial	0.2436	0.2440	0.2453	0.2469
Medium Commercial	0.2151	0.2122	0.2135	0.2152
Large Commercial	0.1807	0.1676	0.1688	0.1703
Street Lights	0.2184	0.2002	0.2011	0.2023
Agriculture	0.2405	0.2407	0.2418	0.2432
Industrial	0.1543	0.1395	0.1406	0.1420
Total	0.2057	0.2016	0.2029	0.2044
Initial Rate Savings in 2022 from PG&E Bundled Rate		2.00%	1.50%	0.50%
Maximum Rate Savings After Fully Operational		3.9-4.4%	2.9-3.9%	0.9-1.4%

*PG&E bundled average rate projected based on PG&E's 2018 Rates.

A financial pro forma in support of these rates can be found in Appendix B.

Exhibit 24 provides the rate comparison of CCA projected rates to PG&E's estimated bundled rate projected forward to 2020 from the 2018 ERRR filing. Exhibit 25 provides the comparison for a residential customer of CCA projected rates to PG&E's bundled rate and PG&E's rate offerings for additional renewable power. For 2018, PG&E charges \$0.02002 per kwh for each additional renewable kwh requested by a residential customer.

Exhibit 25
Residential Rate Comparison for 2022 – 4 Participants

	PG&E Indicative Rate	Butte County CCA Indicative Rate	Percent Difference
50% Renewable	0.21336	0.20193	5.4%
75% Renewable	0.21836	0.20350	6.8%

Exhibit 25 shows that the CCA's portfolios with additional renewable resources can provide savings to residential customers compared to PG&E's additional renewable rate offerings.

Impact of Resource Plan on Greenhouse Gas (GHG) Emissions

The amount of renewable power in PG&E's power supply portfolio is 33 percent²⁸ and will rise to 37 percent by 2020 and 50 percent by 2030.²⁹ At this time, PG&E's resource mix is 79 percent GHG-free due to power supply from large hydro, nuclear, and renewable resources. Most likely PG&E will reduce market purchases (i.e., natural gas fired generation) as CCA customers leave PG&E service.

As outlined in the Resource Portfolio section above, the RPS Portfolio scenario assumed that the CCA's resource portfolio is 80 percent GHG-free in all years. In the 50% Renewables Portfolio and the 75% Renewables Portfolio it is assumed that the CCA's resource portfolio is 80 percent GHG-free in 2019 and 2020 and that the GHG-free resources increase by 1.5 percent each year after 2020 until 2030 when GHG-free resources are 95 percent. The remaining non-GHG-free energy will generate amounts of carbon dioxide as outlined in Exhibit 26. The average portfolio GHG-free percentage over the full study period (88%) was used for this calculation, to account for the higher GHG-free levels in later years in the 50% and 75% Renewables scenarios. Average annual emissions from the three portfolios for 2020-2030 are presented below. In each case, it was assumed that the full CCA load (1,200 GWH) was in each portfolio. In other words, if, for example, the CCA decides to offer both RPS and 50% Renewables products and some proportion of customers fall into each product bucket, the emissions would fall somewhere between 53,887 and 89,812 metric tons of CO₂e/year.

Exhibit 26 Comparison of Average Annual GHG Emissions from Electricity, by Resource Portfolio (2020-2030)			
	RPS 80% GHG-free	50% Renewable 88% GHG-free	75% Renewable 88% GHG-free
CO ₂ Emissions (Metric tons of CO ₂ e/year) ³⁰	89,812	53,887	53,887

Local Resources/Behind the Meter Butte County CCA Programs

The CCA will have the option to invest in a range of programs to expand renewable energy use and enhance economic development in the County. Increased renewable energy use can be accomplished by supporting customers wishing to own small renewable generation (net energy metering), purchasing from small local for-profit renewable generators (feed-in tariffs), purchasing renewable resources directly, or supporting electric vehicle use. Each of these programs also yields economic development benefits by spending locally and saving local

²⁸https://www.pge.com/pge_global/local/assets/data/en-us/your-account/your-bill/understand-your-bill/bill-inserts/2017/november/power-content.pdf

²⁹ http://www.cpuc.ca.gov/RPS_Procurement_Rules_33/, <http://www.energy.ca.gov/portfolio/16-RPS-01/>

³⁰ Methodology follows the "GHG Accounting Methodology for LSE Portfolio Development in the IRP 2017-18 Cycle" as proposed by the CPUC staff

customers money. In addition, economic development can be accomplished through additional support for low-income customers or extra support for new or growing businesses. The following sections discuss these programs.

Economic Development

Economic development is another priority for many of the CCAs in California. Local economic development is bolstered through retail rate savings as well as through the locally focused programs offered by the CCAs.

One such program is a special economic development rate to encourage manufacturers or other types of large commercial and industrial industries to site new or expanded operations within the CCA service territory. Additional loads would then bring jobs and tax revenue. The type of new load may also have an impact on average power supply costs. New loads that improve the system load factor will reduce power supply costs and these savings can be passed through to the new large load customer in the form of lower rates. Finally, new large loads may have the flexibility to participate in demand response programs further reducing the average cost of power supply.

Net Energy Metering (NEM)

The CCA should establish a Net Energy Metering (NEM) program for qualified customers in their service territory to encourage wider use of distributed energy resources (DER) such as rooftop solar. NEM programs allow energy customers who generate some or all of their own power to sell excess generation to the grid and benefit from a credit for those sales when they become a NEM consumer.

PG&E currently offers a NEM program in which customers receive an annual “true-up” statement at the end of every 12-month billing cycle. This allows customers to balance credit earned in summer months with charges accrued in the winter. Customers earn power credits at the market rate at the time of generation, between \$0.03 and \$0.04 per kilowatt-hour (kWh)³¹, though they are not paid for excess generation. Credits unused at the end of each year expire. This policy therefore incentivizes customers to limit the size of their generation system given as excess generation will not provide a return.

All of the CCAs currently operating in California also offer NEM programs, and three of the most recently operational CCAs have offered them at the launch of service³². These programs are across the board more favorable for NEM customers than the IOU’s. These CCAs allow for higher

³¹https://www.pge.com/en_US/residential/solar-and-vehicles/green-energy-incentives/solar-and-renewable-metering-and-billing/how-to-read-your-bill/how-to-read-your-bill.page

³²<https://pioneercommunityenergy.ca.gov/home/nem-solar/>, <https://www.poweredbyprime.org/fag>, <http://www.applevalley.org/home/showdocument?id=18607>

reimbursement rates, roll-over of earned credits as well as cashing out on credits earned over \$100.

All of these CCA-managed NEM programs offer greater incentives for customers in their service area to invest in more and larger DER. This has the benefit of increasing the supply of renewable resources available to these CCAs as well as encouraging high participation rates among current and potential NEM customers. Butte County CCA has the option to implement a similar NEM program.

Feed-in Tariffs

Feed-in tariffs (FIT) offer terms by which electric service providers such as IOUs and CCAs purchase power from small-scale renewable electricity projects within their service territory. In contrast with NEM programs, which typically target owners of homes and small businesses who wish to install a rooftop photovoltaic (PV) system, FIT programs target owners of larger generation projects, in the range of 0.5-3 MW. These could be larger rooftop photovoltaic (PV) systems located at industrial sites or ground-mounted shade in parking lots.

PG&E currently offers its Renewable Feed-in-Tariff (ReMAT), available to renewable generation projects from 1.5 to 3 MW, with prices around \$89 per Megawatt hour (MWh).³³ Sonoma Clean Power (SCP) offers its own FIT program for generating facilities under 1 MW at a flat rate of \$95/MWh.³⁴ Marin Clean Energy (MCE) also offers a FIT program for generating facilities under 1 MW with prices ranging from \$90 to \$137.66/MWh.³⁵

In developing a FIT program of its own, the Participants' CCA would incentivize customers in their service area to develop local renewable resources and improve participation among this customer class as well. If the FIT resources are certified, then the CCA may be able to use the FIT program as a long-term RPS procurement strategy.

Local Generation Resources Development

A final option to drive growth in local renewable generation resources within the CCA service area is for the CCA itself to build or acquire generation resources. MCE currently has 10.5 MW of CCA-owned local solar PV projects under development and is planning to develop or purchase locally constructed, utility scale renewable generating capacity with a potential of up to 25 MW total by 2021.³⁶ This model of CCA-owned resources provides CCAs with a guaranteed renewable power source as well as local economic stimulus.

³³https://www.pge.com/en_US/for-our-business-partners/floating-pages/remat-feed-in-tariff/remat-feed-in-tariff.page

³⁴<http://sonomacleanpower.org/profit/#summary>

³⁵https://www.mcecleanenergy.org/wp-content/uploads/FIT_Tariff_5.15_FINAL.pdf

³⁶<https://www.mcecleanenergy.org/wp-content/uploads/2017/11/MCE-2018-Integrated-Resource-Plan-FINAL-2017.11.02.pdf>

Electric Vehicle (EV) Programs and Charging Stations

Encouraging electric vehicle use can both increase load serving entity (“LSE”) load and simultaneously generate environmental benefits. Many LSEs offer special rates for electric vehicle charging. PG&E offers two non-tiered, time-of-use (TOU) plans: EV-A combines the loads of vehicle charging with the load of the residence. EV-B customers install a separate meter explicitly for vehicle charging.³⁷ TOU rates encourage vehicle charging at times when energy is cheapest or system load is lowest. MCE offers a similar program for their customers with lower rates.³⁸

In addition to targeted rate programs, CCAs can encourage electric vehicle use by investing in local electric vehicle charging stations. Silicon Valley Power (SVP) opened the largest public electric vehicle charging center in the State in April 2016. The facility features 48 Level 2 chargers and one DC Fast Charger³⁹. SCP also provided qualified customers with incentives to purchase EVs in 2016 and continued the program in 2017.⁴⁰ The Participants’ CCA could invest in similar projects to promote electric vehicle use within its service area.

Low Income Programs

PG&E offers assistance to low-income customers on both one-time and long-term bases. PG&E offers one-time energy credits up to \$300 through their Relief for Energy Assistance through Community Help (REACH) program.

For customers in need of more sustained assistance, PG&E offers rates that are 20 percent or lower for qualifying households under the California Alternate Rate Energy (CARE)⁴¹ program. The CARE program is mandatory for IOUs per California Public Utilities Code 739.1. The program is set up for electric corporations that have 100,000 or more customer accounts to provide 30-35 percent discount on electric utility bills on households that are at or below 200 percent of the federal poverty line. Funding for CARE is collected on an equal cents/kWh basis from all customer classes except street lighting. This program, like other PG&E programs, would continue to be available to CCA customers either through PG&E or the CCA.

In addition, the Family Electric Rate Assistance (FERA) Program can provide a monthly discount on electric bills. This program is designed for income-qualified households of three or more persons. Finally, the California Department of Community Services and Development (CSD)

³⁷ <http://www.pge.com/myhome/environment/whatyoucando/electricdrivevehicles/rateoptions/>

³⁸ <https://www.mcecleanenergy.org/electric-vehicles/>

³⁹ <http://www.siliconvalleypower.com/Home/Components/News/News/5036/2065>

⁴⁰ <https://sonomacleanpower.org/sonoma-clean-power-launches-ev-incentive-program/>

⁴¹ https://www.pge.com/en_US/residential/save-energy-money/help-paying-your-bill/payment-assistance-overview/payment-assistance-overview.page

oversees a federal program, Low-income Home Energy Assistance Program (LIHEAP), which offers help for heating or cooling homes and help for weatherproofing homes.

At present, most California CCAs simply match their incumbent IOU's low-income programs, as in the case of MCE and SCP. It is important to note that PG&E is the only IOU in the State to charge the PCIA to CARE customers. It is assumed that the Participants' CCA will continue to provide the same support to low-income customers as does PG&E.

Economic Impacts in the Community

The analyses contained in this Plan of forming a CCA in Butte County has focused only on the direct effects of this formation. However, in addition to direct effects, indirect microeconomic effects are also expected.

The indirect effects of creating a CCA include the effects of increased commerce, and disposable income. Within this Plan, an input-output- (IO) analysis is undertaken to analyze these indirect effects. The IO model turns on the assumption that forming a CCA will lead to lower energy rates for their customers. Three types of impacts are analyzed in the IO model. These are described below.

Local Investment – The CCA may choose to implement programs to incentivize investments in local distributed energy resources (DER). Participants in the CCA may pursue local clean DER. These resources can be behind the meter or community projects where several customers participate in a centrally located project (e.g. “community solar”). This demand for local renewable resources will lead to an increase in the manufacturing and installation of DER, and lead to an increase in employment in the related manufacturing and construction sectors.

Increased Disposable Income – Establishing a CCA will lead to reduced customer rates for energy, more disposable income for individuals, and greater revenues for businesses. These cost savings would then lead to more investment by individuals and businesses for personal or business purposes. This increase in spending will then lead to increased employment for multiple sectors such as retail, construction, and manufacturing.

Environmental and Health Impacts – With the creation of a CCA, other non-commerce indirect effects will occur. These may be environmental, such as improved air quality or improved human health due to the CCA potentially utilizing more renewable energy sources versus continuing use of traditional energy sources which may have a greater GHG footprint. While a change in GHG emissions is not modeled directly in economic development models used in this Plan, the reduction of these GHGs may be captured in indirect effects projected by the models.

Input-Output Modeling (IO modeling)

County-wide electric rate savings and growth in manufacturing jobs and other energy intensive industries are expected to spur economic development impacts. Exhibit 28 shows the effect \$5 million in rate savings could have on the County economy as estimated in the Butte County IMPLAN model. The \$5 million rate savings represents the minimum bill savings per year once the CCA has achieved full operation and all 4 Participants are included. The IMPLAN model is an input-output (IO) model that estimates impacts to an economy due to a change to various inputs such as industry income, supply costs, or changes to labor and household income. Both positive and negative impacts can be measured using IO modeling. IO modeling produces results broken down into several categories. Each of these is described below:

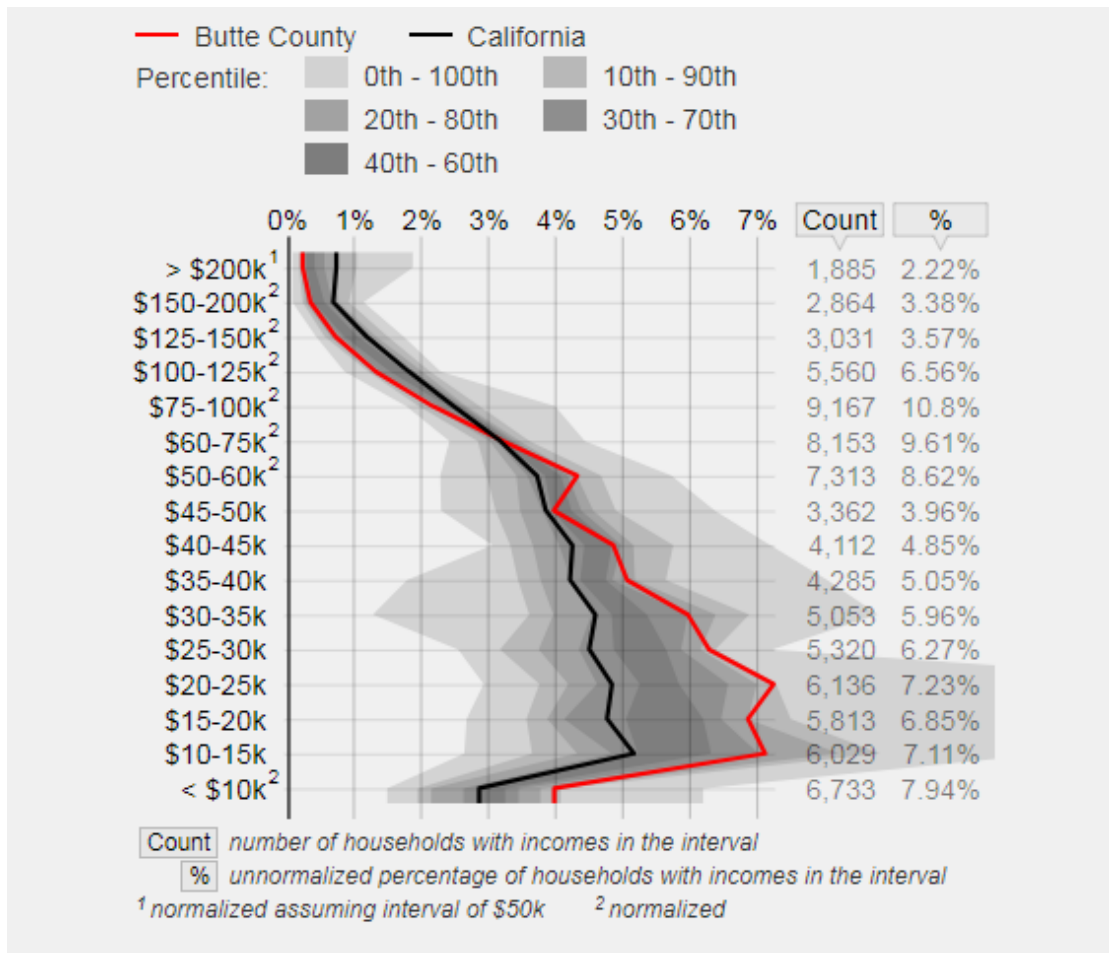
- **Direct Effects** – Increased purchases of inputs used to produce final goods and services purchased by residents. Direct effects are the input values in an IO model, or first round effects.
- **Indirect Effects** – Value of inputs used by firms affected by direct effects (inputs). Economic activity that supports direct effects.
- **Induced Effects** – Results of Direct and Indirect effects (calculated using multipliers). Represents economic activity from household spending.
- **Total Effects** – Sum of Direct, Indirect, and Induced effects.
- **Total Output** – Value of all goods and services produced by industries.
- **Value Added** – Total Output less value of inputs, or the Net Benefit/Impact to an economy.
- **Employment** – Number of additional/reduced full time employment resulting from direct effects.

This Plan uses value added and employment figures to represent the total additional economic impact of the rate savings associated with forming the CCA.

The rate savings are modeled for residential, commercial, industrial, and agricultural sectors. For residential, the rate savings are modeled at different household income levels to estimate the impact on the economy from reduced bills. Household income distribution is estimated based on the income percentiles from the statistical atlas for Butte County.⁴² Exhibit 27 summarizes the high-level breakdown for income distribution within the county compared with the rest of the State.

⁴² Statistical Atlas. Butte County, California. Available online: <https://statisticalatlas.com/county/California/Butte-County/Household-Income> data from U.S. Census Bureau.

Exhibit 27
Household Income Distribution, Butte County and California⁴³



The change in household income assumes that all households are impacted proportionately; however, in practice lower income households may see the most significant benefit due to their electric use. Generally, lower income families are not able to reduce their utility bills as easily through efficiency upgrades or modified behavior due to lack of disposable income. Therefore, the impacts are likely underestimated.

Non-residential impacts are estimated using the top ten industries in the County, which account for over 80% of the CCA revenue. Rate savings are allocated to each industry based on the share of revenue. This method assumes that energy use is positively correlated with industry revenue. Major agricultural activities in the County include tree nut farming, plums, rice, almonds and nursery products. Major commercial and industrial industries include government, healthcare,

⁴³ Normalized with respect to standard interval of \$5k. Gray areas represent percentile bands from the counties in California. © OpenStreetMap contributors Available online: <https://statisticalatlas.com/county/California/Butte-County/Household-Income#figure/household-income-percentiles>

retail, manufacturing, construction, professional and scientific services, finance, accommodation and food services, and wholesale trade.

Exhibit 28 details the macroeconomic impacts anticipated from the 2% savings in the generation rate from after forming the CCA. The total added value for one year of rate savings is estimated at \$3.6 million. Finally, the rate savings are estimated to produce an additional 42 full time jobs.

Exhibit 28 \$5 Million Rate Savings Effects on the Butte County Economy				
Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	13.9	\$788,000	\$1,383,000	\$2,239,000
Indirect Effect	3.7	\$169,000	\$267,000	\$489,000
Induced Effect	24	\$1,024,000	\$1,902,000	\$3,198,000
Total Effect	41.7	\$1,981,000	\$3,552,000	\$5,926,000

These savings are based on the economic construct that households will spend some share of the increased disposable income on more goods and services. This increased spending on goods and services will then lead to producers either increasing the wages of their current employees or hiring additional employees to handle the increased demand. This in turn will give the employees a larger disposable income which they spend on goods and services and thus repeating the cycle of increased demand. In addition, reduced inputs to production for non-residential electric customers will allow companies to invest in other areas to promote growth such as hiring new employees, additional training, upgraded equipment, etc.

DER Development Impacts

The economic impacts of DER development are estimated using the Jobs and Economic Development Impact (JEDI) model.⁴⁴ JEDI estimates the effects of DER development on construction industries and the local economy. JEDI was initially developed by the National Renewable Energy Laboratory to demonstrate the economic benefits associated with constructing and operating wind and photovoltaic systems in the United States. JEDI has since been expanded to analyze similar economic impacts for various energy sources such as biofuels, coal, concentrating solar power, geothermal, marine and hydrokinetic power, and natural gas. A primary goal of JEDI is that it is being used as a tool for system developers, renewable energy advocates, government officials, decision makers, and others to easily identify the local economic impacts associated with constructing and operating these systems on the economy, whether through direct and indirect effects.

Users input general information about a particular energy project, such as the project location, the type of system being installed, nameplate capacity, annual operations and maintenance costs, and others. JEDI has default but modifiable data regarding various aspects of each energy system type, such as equipment costs, tax parameters, and labor costs. JEDI then uses the input

⁴⁴ <http://www.nrel.gov/analysis/jedi/>

general information and the data, default or modified, to run calculations on the types of economic effects produced by the proposed project. This model projects direct job creation by industry, indirect job and business increases due to the project, projected operation costs, and more.

In order for JEDI to provide information, it must be populated with detailed data for the assumed DER project. Projected system data, type of solar cell, nameplate capacity (kW), and the number of systems. As an example of the macroeconomic activity caused by local DER deployment, this example assumes the installation of a 10-crystalline silicon, fixed mount solar systems with nameplate capacities of 1 MW each for a total capacity of 10 MW. Exhibit 29 describes the local macroeconomic impacts of constructing a sample 10 MW local solar project in Butte County as estimated from a state-wide perspective. The economic impacts will be spread across both the County and the state.

Exhibit 29			
Projected 10 MW Solar System Impacts on Butte County Economy			
Description	Jobs	Earnings, \$000	Output (GDP), \$000
During Construction and Installation Period			
*Project Development and Onsite Labor Impacts			
Construction and Installation Labor	68.5	\$4,436	
Construction and Installation Related Services	74.9	\$4,001	
Subtotal	143.4	\$8,438	\$13,524
*Module and Supply Chain Impacts			
Manufacturing Impacts	0.0	\$0	\$0
Trade (Wholesale and Retail)	15.9	\$885	\$2,578
Finance, Insurance and Real Estate	0.0	\$0	\$0
Professional Services	10.8	\$465	\$1,382
Other Services	28.3	\$3,010	\$8,473
Other Sectors	63.4	\$2,131	\$3,886
Subtotal	118.4	\$6,491	\$16,317
Induced Impacts	65.3	\$2,613	\$7,818
Total Impacts	327.1	\$17,542	\$37,660
During Operating Years			
*Onsite Labor Impacts			
PV Project Labor Only	1.8	\$111	\$111
*Local Revenue and Supply Chain Impacts			
	0.5	\$29	\$92
*Induced Impacts			
	0.4	\$15	\$44
Total Impacts	2.7	\$155	\$247

Exhibit 29 shows the construction and ongoing effects of building a 10 MW solar power system. It is projected that roughly 327 jobs will be created during construction and installation. Of this

total, about 143 jobs will be directly involved in construction and installation while roughly 118 jobs will be indirectly involved with the building of the project. Induced impacts of the construction and installation will create approximately 65 jobs. These induced effects may include anything from increased employment in restaurants, retail, education, and others. Overall, the building of this one solar project is projected to create \$17.5 million in earnings and \$38 million in output (GDP) in the local economy along with 327 jobs during construction and 3 full-time jobs ongoing. Again, these effects will be shared between the county and the State.

Sensitivity and Risk Analysis

The economic analysis provides a base case scenario for forming a CCA. This base case is predicated on numerous assumptions and estimates that influence the overall results. This section of the Plan will provide the range of impacts that could result from changes in the most significant variables for the portfolios described in the Power Supply Strategy and Cost of Service sections of this Plan. In addition, this section will address uncertainties that should be addressed and mitigated to the maximum extent possible.

First, an overview of risk and uncertainties and their relative severity are examined (Exhibit 30), followed by discussion of each risk factor. In Exhibit 30, the risks are analyzed qualitatively based on the likelihood of a negative outcome for CCAs as well as the perceived severity of a negative outcome. Next, the uncertainties and risks are further ranked qualitatively from the perspective of the proposed CCA formed by the Participants (Potential to “break” Butte County CCA). All qualitative ranking is subjective based on recent California experience. For variables where risk is quantified, key assumptions are discussed and a reasonable range of outcomes is established. The range in variable assumptions is meant to reflect probable futures, but do not demonstrate the full scope of possible outcomes. The CCA’s rate impacts are estimated using a range of likely outcomes and presented in a scenario analysis.

Exhibit 30
Comparison of Risks, Mitigation Strategies and Risk Severity

	Risk	Description	Problem	Mitigation Strategy	Likelihood of Problem	Severity of Problem	Potential to “Break” Butte County CCA
1	PG&E Rates and Surcharges	PG&E's generation rates decrease or its non-bypassable charges increase	<ul style="list-style-type: none"> Butte County CCA rates exceed PG&E Increased customer opt-out rate 	<ul style="list-style-type: none"> Establish Rate Stabilization Fund Invest in a balanced portfolio to remain agile in power market Emphasize the value of programs, local control, and environmental impact in marketing 	High – most operating CCAs in California have undergone short periods of rate competition from the incumbent IOU.	Medium - CCAs have always been able to buffer rate impacts using financial reserves, then adjust power supply to regain rate advantage.	Low – only in the event of very poor contract management by Butte County CCA and unprecedented changes in IOU rates.
2	Regulatory Risks	Energy policy is enacted that compromises CCA competitiveness or independence	<ul style="list-style-type: none"> New costs incurred Reduced authority 	<ul style="list-style-type: none"> Coordination with CCA community on regulatory involvement Hire lobbyists and regulatory representatives 	Low – existing regulatory precedent makes the likelihood of state policies that severely disadvantage CCAs low.	High – a worst case scenario regulatory legislative decision limiting CCA autonomy or enforcing additional costs could hinder CCA viability.	Low – energy policy severe enough to make Butte County CCA infeasible is very unlikely.
3	Power Supply Costs	Power prices increase at crucial time for Butte County CCA	<ul style="list-style-type: none"> Butte County CCA rates exceed PG&E Increased customer opt-out rate 	<ul style="list-style-type: none"> Long-term contracts Draw on Butte County CCA reserves to stabilize rates through price spike 	Low – market prices are unlikely to spike enough to make Butte County CCA financially infeasible prior to CCA launch. From that point on, the CCA can limit its exposure through contract selection.	Medium – a poorly timed price spike combined with poor power supply contract management could require Butte County CCA to dig into reserves or delay launch.	Very low
4	PG&E RPS Share	PG&E's RPS or GHG-free power portfolio grows to match or exceed Butte County CCAs	Increased customer opt-out rate	<ul style="list-style-type: none"> Increase renewable power portfolio Emphasize rates and local programs in marketing 	Medium – PG&E's power portfolio is dynamic and could change rapidly as a result of other CCA departures.	Low – CCA will have capability to increase renewable energy purchases to match or exceed PG&E if the event occurs. In addition, Butte County CCA will promote other benefits of its service to customers.	Very Low – CCA is highly likely to respond effectively if this occurs.

5	Availability of RPS/GHG-Free Power	Unexpectedly high market demand or loss of supply of renewable resources	<ul style="list-style-type: none"> Butte County CCA unable to provide target power products 	<ul style="list-style-type: none"> Shift emphasis to GHG-free or RPS resources depending on availability Secure long-term contracts Invest in local renewable resources 	Low – power procurement providers report a plethora of RPS and GHG-free bids available on the market.	Medium – if Butte County CCA were unexpectedly unable to procure enough RPS or GHG-free power, it could emphasize other program strengths to retain customers until new resources came online.	Very Low – negligible chance of occurring.
6	Financial Risks	Butte County CCA is unable to acquire desired financing or credit	<ul style="list-style-type: none"> Slower or delayed program launch Unable to build generation projects 	<ul style="list-style-type: none"> Adopt gradual program roll-out Establish Rate Stabilization Fund Minimize overhead costs 	Low – CCAs have become sufficiently established in California that financing is almost certainly available.	Medium – in the event Butte County CCA is limited in financing options, it can adopt a more conservative program design and gradual roll-out.	Very Low
7	Loads and Customer Participation	Unprecedented opt-out rate reduces competitiveness	<ul style="list-style-type: none"> Excess power contracts Poor margins 	<ul style="list-style-type: none"> Increase marketing Reduce overhead Expand to new customer markets Consider merging with existing CCA 	Low – as CCAs have become more common in California, and CCA marketing firms more experienced, opt-out rates have gone lower and lower.	Low – Butte County CCA will have numerous viable options in the event they suffer unexpectedly low participation.	Very Low

PG&E Rates and Surcharges

Sensitivity analyses were conducted for two components of PG&E rates. Assumptions are described below. The delivery rates are paid by both CCA and PG&E bundled customers. As such, their increase or decrease impacts all customers equally.

Generation Rate

PG&E generation rates are projected to increase on average by 0.3 percent per year over the next 10 years based on the projected market prices, PG&E's resource mix and renewable resource growth rates. To explore the impact in the case that PG&E's generation rate changes significantly relative to the CCA's generation cost, PG&E's generation cost was modeled in the high and low case by incorporating higher and lower generation growth rates. This results in PG&E's power supply average annual growth rate in the high case of 2.3 percent and in the low case of -0.7 percent.

PCIA

When legislation was introduced to allow the formation of CCAs, it was recognized that the IOUs currently serving the potential CCA customers may face stranded generation costs. The PCIA methodology was established by the CPUC as a means for IOUs to recover those stranded costs. The PCIA faces several issues, however, including the source and transparency of data used for the calculation and the fact that the PCIA level is highly variable causing a significant amount of uncertainty.

A PCIA proceeding is underway, and the IOUs and CCA community have presented alternative calculation methods for use going forward. The proposed methodologies revise the previously proposed Portfolio Allocation Mechanism (PAM) to divide the cost into two resource accounts: The Green Allocation Mechanism (GAM) and the Portfolio Monetization Mechanism (PMM). In both the PAM and the revised proposal (GAM and PMM), the CCA would be allocated RECs and RA credits based on load and peak load share of the CCA, respectively. While the fee charged to customers may increase, some of the increase would be offset by the REC and RA credits. Under these scenarios, the CCA is essentially purchasing RECs and RA resources from the IOUs. A decision from the CPUC regarding the calculation method is expected by the end of the summer 2018.

The level of the PCIA, or other non-bypassable charge that will potentially replace the PCIA, will impact the cost competitiveness of the Participants' CCA. In order to be cost-effective, the CCA's power supply costs plus PCIA and other surcharges must be lower than PG&E's generation rates. Many factors influence the PCIA but primarily the PCIA is determined by the cost of power contracts and the cost to PG&E of the departing load. Uncertainties surrounding the PCIA include methodology assumptions unique to PG&E as well as to what degree previously acquired power contracts can be retired. The potential for the PCIA to increase sharply occurs when PG&E must

sell previously contracted power at times when wholesale power prices are much lower. The PCIA also has potential to decrease since it reflects PG&E's own resources and signed contracts obtained prior to load departure; once the contracts expire, the related PCIA will disappear. Therefore, over time, the PCIA will vary, but it is expected that it will decline as market prices increase and grandfathered contracts expire.

Forecasting the PCIA is difficult since key inputs are heavily redacted from the rate filings and regulatory changes can significantly impact the PCIA. The uncertainty associated with forecast PCIA rates is modeled considering historic PCIA increases as well as the methodology used for the PCIA calculation where contracts are retired over time.

In the high case, it was assumed that the PCIA would increase by 73 percent in 2019 and remain at that level. The high case assumes that the proposed GAM/PMM costs go into effect, where market prices remain low and that PG&E must sell newly acquired power contracts at a loss. However, the RA and REC credits that the CCA would receive in conjunction with the GAM/PAM mechanism have not been included. This creates a very conservative case, where the increased cost to customers is modeled without the offsetting impact of the credits. For the low case, it was assumed that the PCIA decreases by 2 percent per year due to the expiration of contracts and/or increased market prices.

Regulatory Risks

There are numerous factors that could impact PG&E's rates in addition to the market price impacts described above. Regulatory changes, plant or technology retirements or additions, and the long-term impact of the Diablo Canyon closure all can impact PG&E's rates in the future. Regulatory issues continue to arise that may impact the competitiveness of the Participants' CCA. The impact of these factors is difficult to assess and model quantitatively. However, California's operating CCAs have worked hard to address any potentially detrimental changes through effective lobbying, and technical support in Sacramento and San Francisco.

New legislation can also impact the Participants' CCA. For example, new legislation that recently affected CCAs is SB 350. The CCA-specific changes reflected in SB 350 are generally positive, providing for ongoing autonomy with regard to resource planning and procurement. CCAs must be aware, however, of this legislation's long-term contracting requirement associated with renewable energy procurement.

Regulatory risks also include the potential for utility generation costs to be shifted to non-bypassable and delivery charges. The existing PCIA methodology is currently being evaluated and may be replaced in the future with a methodology that increases costs to customers, while transferring REC and RA benefits to the CCA.

In addition, there is a risk that additional capacity resource costs are pushed onto CCAs via the Cost Allocation Mechanism (CAM). The CCA will need to continually monitor and lobby at the Federal, State and local levels to ensure fair and equitable treatment related to CCA charges.

Power Supply Costs

Natural gas-fired generation is predominantly used as the marginal resource within the State's dispatch order. Therefore, wholesale market prices are driven largely by natural gas prices. In addition, the CCA's power supply mix has been modeled according to different levels of renewable energy. Renewable energy costs are forecast for the base case; however, several factors could influence future renewable energy costs including locational factors for new facilities, transmission costs, technology advancements, changes in renewable energy incentives, or changes in California or neighboring state RPS.

Since resource costs are based on forecast wholesale market and renewable market prices, it is prudent to look at the sensitivity of the 20-year levelized cost calculation to fluctuations in these projections. Exhibit 31 below shows a summary of low, base, and high resource costs.

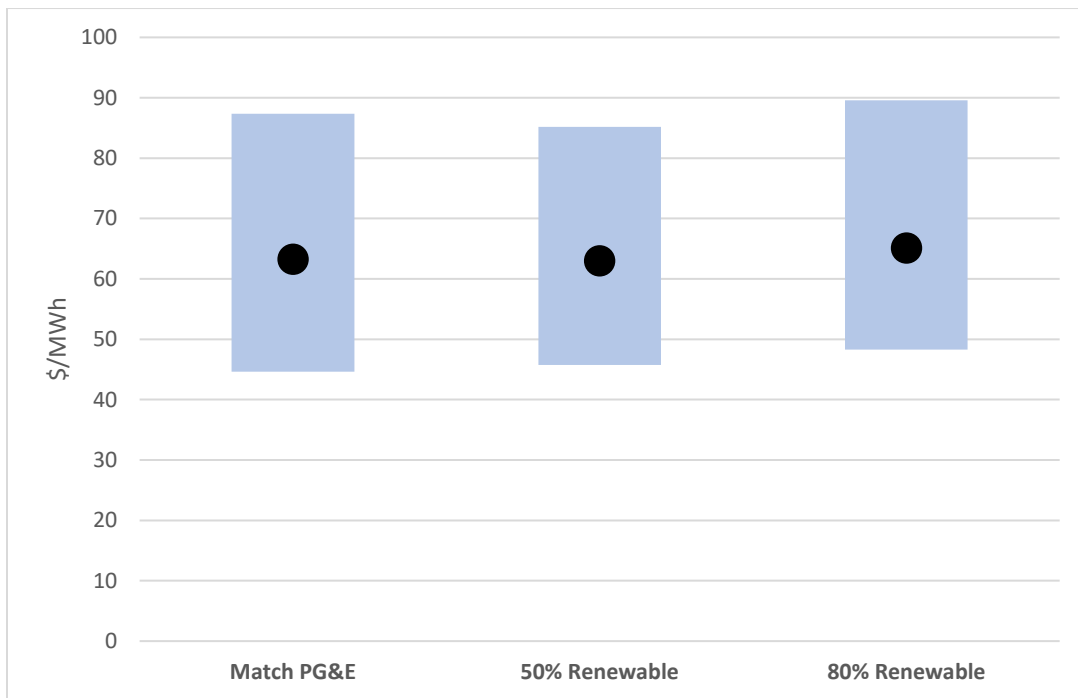
Exhibit 31 Low, Base and High 20-year Levelized Resource Costs (\$/MWh)					
Case	Market PPA ⁽¹⁾	Portfolio 1 Match PG&E Renewables	Portfolio 2 50% Renewables	Portfolio 3 75% Renewables	Local Renewables
Low Case	28.2	44.6	63.2	87.4	45
Base Case	53.6	46.8	64.5	90.2	65
High Case	77.0	48.3	65.1	89.6	85

(1) Excludes GHG-free premiums included in a portion of market PPA purchases costs in order to achieve the GHG-free purchase targets. Premiums escalate from \$3.50/MWh in 2020 to \$7/MWh in 2039. The 20-year levelized cost of the premium is \$4.8/MWh.

Portfolios 1 through 3 are modeled based on low, base and high forecasts for wholesale market and renewable costs. The base case renewable energy costs are based on the cost of PPAs currently being executed in the region. The low case renewable energy costs are based on an assumption that the costs of renewable generating projects will, as expected, continue to decline and the CCA will, over time, layer in PPAs sourced to the lower cost renewable resources that will be developed over the next five to ten years. The high case renewable energy costs are based on an assumption that the CCA is not able to secure PPAs sourced to relatively new and lower cost renewable resources but, rather, signs PPAs sourced to older renewable resources with higher costs. The renewable costs in this case reflect the costs of renewable resources that were developed three to five years or more ago.

The 20-year levelized costs of each portfolio has been calculated using the range of resource costs shown above. The base case costs are depicted by the black dots in Exhibit 32.

Exhibit 32
Sensitivity of Portfolio 20-year Levelized Costs



Portfolio 3, which relies on the most renewable energy purchases to serve retail load, has the highest projected costs that range from a low of \$50/MWh to a high of \$89/MWh. The likelihood of renewable project costs increasing to the point that 20-year levelized costs of renewable purchases is near \$84/MWh is low (the high case under Portfolio 1). All signs point to decreases in solar equipment costs on a \$/watt basis. There have been significant decreases in solar costs over the past few years.

The potential for market PPA prices to increase to the high case of near \$77/MWh is much greater. Wholesale market prices are dependent on many factors, the most notable of which is natural gas price. Natural gas prices are at historic lows and wholesale market prices have followed. However, natural gas prices are subject to a variety of local, national and international forces that could alter the current marketplace. For one, increased regulation of the natural gas industry with respect to the deployment of fracking technology could cause decreases in natural gas supplies and commensurate increases in natural gas prices. If natural gas prices increased, it is highly likely that electric wholesale market prices would also increase. Increased costs associated with carbon taxes and/or carbon cap and trade programs could also cause upward pressure on wholesale market prices.

When evaluating risks, it is important to note that power supply costs are approximately 60 percent of the total costs, PG&E non-by-passable charges account for 25 percent and operating costs account for 15 percent of total CCA revenue requirement.

PG&E RPS Portfolio

There are several factors that may impact the share of renewable energy in PG&E's portfolio over the next decade. First, PG&E proposed plans to close their Diablo Canyon Nuclear Power Plant, which were approved by the CPUC in January 2018. The decision reduces PG&E's total generation, increasing the effective share of renewables from current contracts. Any investments in renewables to cover some portion of Diablo plant's generating capacity would compound this trend. Future procurement plans will be evaluated with the Integrated Resource Planning proceeding.⁴⁵

Second, customers departing PG&E for CCA service throughout PG&E territory will have the effect of shrinking PG&E's load, thereby increasing the share of renewables made up by PG&E's current RPS contracts. Finally, PG&E could begin striving to compete with CCAs in terms of the environmental impact of its power portfolio. In combination, these forces could drive up the share of renewable energy in PG&E's power mix to match or exceed the CCA's planned power mix. Left unchecked, these trends could compromise the CCA's advantage over PG&E in its environmental impact.

However, there are several factors that mitigate this risk. First, PG&E's current renewable power contracts are grossly above current market price, as evidenced by the current high PCIA rates. As these current contracts grow to represent a larger share of PG&E's portfolio, they will simultaneously become less cost competitive. Second, replacing the power from the Diablo Canyon Nuclear Power Plant represents a risk to PG&E as well as the CCA. PG&E's track record for acquiring well-priced renewable contracts is poor, so future procurement plans may not increase their competitiveness either. Finally, the CCA will have the option to acquire more renewable energy in response to changes in PG&E's portfolio.

Availability of Renewable and GHG-Free Resources

Often one of the goals of a CCA is to offer a power product to its customers that is cleaner than that provided by PG&E. As renewable options, the 50 percent and 75 percent renewable portfolios developed for this Plan include more renewable resources while matching or exceeding PG&E's share of GHG resources which, depending on the amount of annual hydro generation, is in the 60 to 70 percent range.

The primary risk associated with this strategy is lack of sufficient renewable resources at prices that will keep the CCA competitive with PG&E. The current market has sufficient renewable resources available. Utilities that submit requests for renewable power supply receive bids that far exceed the requested amounts at prices that are very competitive. As RPS requirements and the share of renewable resources in CCA portfolios are increasing, competition for renewable

⁴⁵ CPUC Decision 18-01-022 <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M205/K423/205423920.PDF>

resources could increase. However, it is important to note that the total load has not changed because customers shift to a CCA, the renewable resource timeline may just have accelerated until targets have been reached. Increased competition will result in increased prices once supply cannot meet the demand, resulting in increased development of renewable resources. In addition, the CCAs will have the opportunity to aid in the development of renewable resources by fostering local resource development.

Financial Risks

Starting a new venture carries financial risks that will have to be considered before proceeding with a CCA. Depending on the organization structure, a third-party may take on the financial obligations of the CCA. These include establishing start-up financing, working capital funding such as lines of credit, and entering into contracts with suppliers and consultants. Other Cities and Counties have protected their General Funds by establishing JPAs or lockbox arrangements with vendors.

However, the Participants' CCA can manage many of the financial risks associated with the uncertainty surrounding a CCA start-up. While the goal is to provide clean power competitively with PG&E, the most important consideration to the third-party financier is that the CCA can increase rates if needed to ensure sufficient revenues are collected to meet costs. In addition, the CCA can plan carefully by minimizing staff initially and only growing as fast as the size of the CCA can support, thus minimizing the fixed costs of operating the CCA.

The Participants' CCA will need to manage the financial risk associated with power supply costs by managing power market and load exposure by prudent hedging and power portfolio management. In addition, the establishment of rate stabilization reserves and sufficient working capital can mitigate financial risks to the third-party financier and to customers. The success of existing CCAs in managing the financial challenges of a CCA start-up and setting rates that are competitive with PG&E can be a valuable guide for the Participants' CCA.

Loads and Customer Participation Rates

The Plan bases the load forecasts on expected load growth, load profiles, and participation rates. In order to evaluate the potential impact of varying loads, low, medium, and high load forecasts have been developed for the sensitivity analysis.

Another assumption that can impact the costs of the CCA is the overall CCA customer participation rates. This Plan uses a conservative participation rate of 95 percent for residential customers and 85 percent for non-residential customers as its base case. A higher participation rate, such as has been experienced by all of California's operating CCAs to date, will increase energy sales relative to the base case and decrease the fixed costs paid by each customer. On the other hand, a reduced participation rate will increase the fixed costs to the CCA participants.

Sensitivity to changes in projected loads has been tested for the high and low load forecast scenarios. For the sensitivity analysis, the high case assumes an additional 5 percent participation rate for non-residential customers, while the low case assumes the participation rate is reduced by 10 percent for all customers. The low case assumes a 0 percent growth in energy and customers after 2019, while the high scenario assumes a 1 percent growth in energy and customers.

The experience of existing CCAs suggest that only a small number of customers opt-out. Once the CCA is operating, the number of customers switching back to the incumbent IOU have also been very low. In order to mitigate the potential switching of customers, it will be important for Butte County CCA to implement prudent power supply strategies to address potential load swings from changes in participation and weather uncertainty, plus establish a rate stabilization fund. Keeping rates low as well as providing excellent customer service will lead to strong customer retention.

Lastly, a jurisdiction participation case was developed to present the impacts of designing a CCA with only two of the base-case four jurisdictions. The base case includes Butte County, and the Cities of Chico, Oroville, and Paradise. The low city participation case includes only Butte County and the City of Chico. Under the two-jurisdiction case, rates are slightly higher than under the four-jurisdiction case due to the fixed costs being spread over less load. The maximum rate savings that the CCA could offer to customers in the four-jurisdiction case is 3-6.7% in the first few years of operation. However, in the two-jurisdiction case, the maximum savings available for the CCA to offer to customers falls to 2.2-5.9% in the first years of operation. There is still sufficient room for the CCA to offer the 2% target rate savings over PG&E to customers. Additionally, annual reserves fall by 50% in the two-jurisdiction case when compared to the four-jurisdiction case, largely driven by the lower number of residential customers in the two-jurisdiction case. However, it should be noted that operating reserves targets can still be met comfortably under this scenario. Lastly, due to the lower load and thus lower power procurement needs, working capital needs are reduced by \$500,000 when compared to the four-jurisdiction case.

Sensitivity Results

Exhibit 33 provides the results of the sensitivity analysis for the RPS scenario, which is the most likely portfolio for Butte County CCA to pursue initially given its goals.

Exhibit 33
Base Case Portfolio – Bundled Rates (\$/kWh)
10-Year Levelized Average System Rate

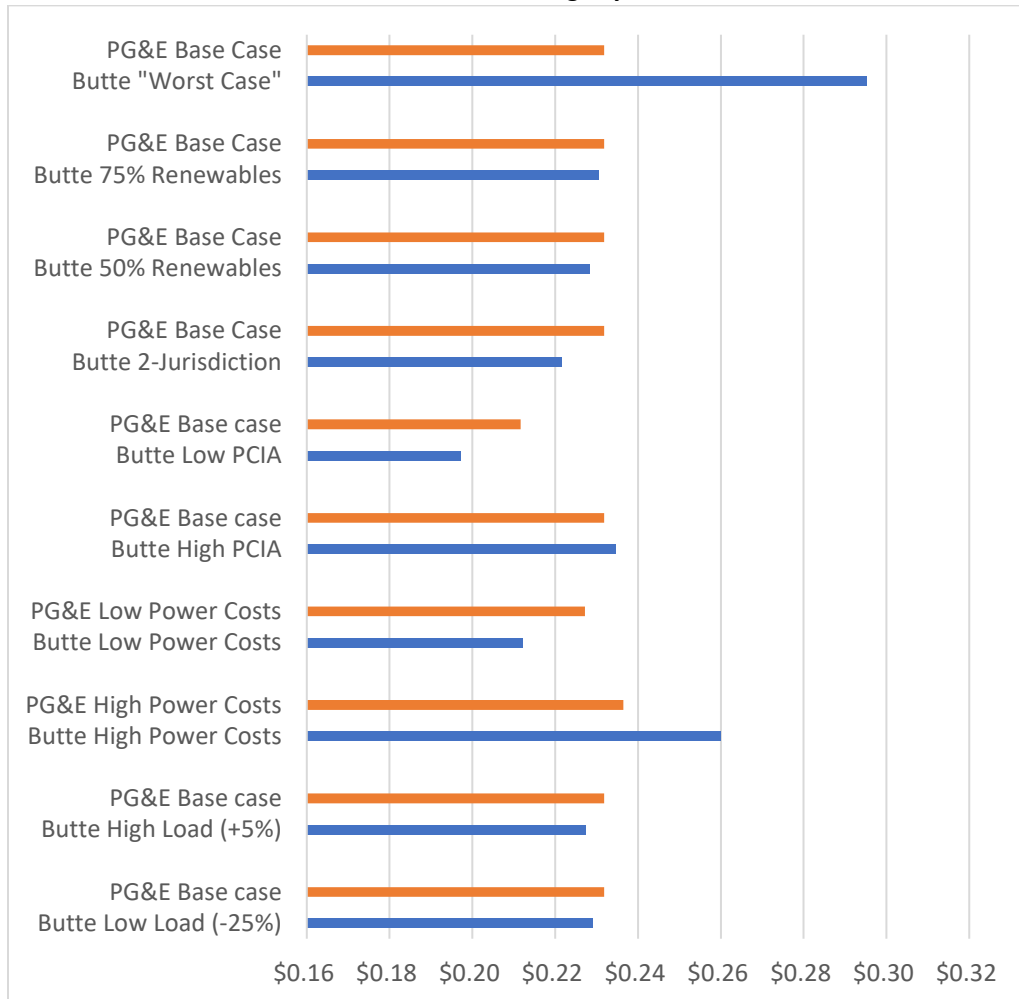


Exhibit 33 provides a comparison of the average system rate under several scenarios as defined below:

- PG&E Base Case, Butte Worst Case: Butte CCA high power supply costs, Low participation (70%), and High PCIA (6% annual escalation on average compared with 2%).
- PG&E Base Case, Butte 75% Renewable: Butte power supply mix is 75% renewable
- PG&E Base Case, Butte 50% Renewable: Butte power supply mix is 50% renewable
- PG&E Base Case, Butte 2 Jurisdiction: Butte County CCA includes only unincorporated areas and the City of Chico
- PG&E Base Case, Butte Low PCIA: PCIA average annual escalation rate is -2% compared with 2% in the base case
- PG&E Base Case, Butte High PCIA: PCIA average annual escalation rate is 6% compared with 2% in the base case. A higher than expected PCIA may occur as a result of the ongoing rulemaking process or PG&E experiences significant load losses due to CCA formation.

- PG&E Low Power Costs, Butte Low Power Costs: PG&E power costs are 2% lower than the base case, Butte CCA power costs are 25% lower than the base case. This might occur if market prices decrease significantly affecting both PG&E and the CCA. Note that lower power prices will likely increase the PCIA as well.
- PG&E High Power Costs, Butte High Power Costs: PG&E power costs are 2% Higher than the base case, Butte CCA power costs are 38% higher than the base case. This might occur if market prices increase significantly affecting both PG&E and the CCA.
- PG&E Base Case, Butte High Load (+5%): Butte CCA participation rate is approximately 95%.
- PG&E Base Case, Butte Low Load (-25%): Butte CCA a participation rate is approximately 70%.

This sensitivity shows that it is a significant risk to the CCA if the PCIA increases over 73 percent in 2019 and remains at that level into the future (high PCIA scenario).

The CCA's rates could also be higher than PG&E's under a "Worst Case" scenario. The "worst case" arises when the CCA does not achieve sufficient customer participation and CCA power supply costs are high, and PG&E charges a high PCIA.

Wholesale market prices for natural gas/electricity are currently at all-time lows. The probability of these market prices decreasing significantly from current levels is low. In addition, the CCA would need to manage its supply portfolio so that it is not exposed to unmanageable risks associated with power costs.

While the CCA will not be able to impact PG&E's generation rates, the CCA does have the opportunity to monitor and actively opine on the costs and methodology used to allocated non-bypassable costs to CCAs in PG&E's service area. Given recent history, this task will be shared with other CCAs and is an important and time-consuming task that can mitigate the impact on the CCA's costs. The PCIA is at a historic high, however, the design of the PCIA implies that the PCIA will decrease over time as PG&E's high-cost contracts expire and market prices increase. The only caveat is that there are regulatory and legislative pressures to continue adding costs to the PCIA calculation. However, the PCIA level should be fairly stable going forward as regulatory remedies are in play to stabilize the PCIA and the CCA vigilance in this area has increased markedly.

This Plan assumes a relatively high customer opt-out percentage (15 percent for non-residential customers) compared to the more modest opt-out rates experienced by California's actively operating CCAs, which is closer to 5 percent overall. While there is a possibility that the Participants' CCA does not reach the projected participation rates, careful monitoring and planning can reduce the potential impact of low loads.

The CCA should also consider implementing a rate stabilization fund so that short-term events that result in lower PG&E rates compared with the CCA rates can be mitigated with reserves rather than by rate increases. Reserves will help the CCA remain competitive and will provide rate stabilization for customers.

Summary and Recommendations

This Plan concludes that the formation of a CCA in Butte County is financially feasible and would yield considerable benefits for all participating County residents and businesses. These benefits could include 2 percent lower rates for electricity, although higher rate reductions are possible. At full build-out, a 2 percent rate reduction (a fraction of the total reduction possible) will add 42 jobs, generate over \$3.6 million in additional GDP, and give the Cities and County and their residents greater control over their power supply, economic development and energy efficiency programs. The positive impacts on the County and its inhabitants of forming a CCA suggest that this effort should be pursued. No likely combination of sensitivities or phase-in/launch schedules will change this recommendation.

CCA Goals and Trade-Offs

The CCA governing board will need to prioritize the goals of the CCA based on the trade-offs between them. For example, CCAs generally offer rate discounts plus other programs. The rate discounts may be somewhat reduced as more programs are offered, depending on structure and available State funding, or as the renewable content of the CCA's portfolio increases.

Rate Reduction

The results of the feasibility study show that rates under a CCA are likely to be lower compared with PG&E's current and forecast generation rates. CCA customers should see no obvious changes in electric service other than the lower price and potentially more renewable power procurement, depending on the CCA's goals. Customers will pay the power supply charges set by the CCA and no longer pay the higher costs of PG&E power supply.

Given this Plan's findings, the CCA's rate setting can establish a goal of providing rates that are lower than the equivalent rates offered by PG&E even under the 50 and 75 percent renewable portfolios. The projected Butte County CCA and PG&E rates are illustrated in Exhibit 34.

Exhibit 34
Indicative Rate Comparison in \$/kWh

Rate Class	2022 PG&E Bundled Rate*	Indicative Butte RPS Bundled Rate	Indicative Butte 50% Renewable Bundled Rate	Indicative 75% Renewable Bundled Rate
Residential	0.2033	0.2007	0.2019	0.2035
Small Commercial	0.2436	0.2440	0.2453	0.2469
Medium Commercial	0.2151	0.2122	0.2135	0.2152
Large Commercial	0.1807	0.1676	0.1688	0.1703
Street Lights	0.2184	0.2002	0.2011	0.2023
Agriculture	0.2405	0.2407	0.2418	0.2432
Industrial	0.1543	0.1395	0.1406	0.1420
Total	0.2057	0.2016	0.2029	0.2044
Initial Rate Savings in 2022 from PG&E Bundled Rate		2.00%	1.50%	0.50%
Maximum Rate Savings After Fully Operational		3.9-4.4%	2.9-3.9%	0.9-1.4%

*PG&E bundled average rate based on PG&E's 2018 Rates

Once the CCA gives notice to PG&E that it will commence service, the CCA customers will not be responsible for costs associated with PG&E's future electricity procurement contracts or power plant investments.⁴⁶ This is an advantage to the CCA customers as they will now have local control of power supply costs through the CCA.

Renewable Energy

A second option of forming a CCA will be an increase in the proportion of energy generated and supplied by renewable resources. The Plan includes procurement of renewable energy sufficient to meet 33 percent or more of the CCA's electricity needs. The majority of this renewable energy will be met by new renewable resources. By 2020, PG&E must procure a minimum of 33 percent of its customers' annual electricity usage from renewable resources due to the State Renewable Portfolio Standard and the Energy Action Plan requirements of the CPUC. The CCA governing board can decide whether to follow the same renewable goals or to implement more aggressive targets.

Energy Efficiency

Additionally, the CCA's governing board may decide to offer more comprehensive energy efficiency programs to its customers. The existing energy efficiency programs administered by PG&E are not expected to change as a result of forming a CCA. The CCA customers will continue to pay the public goods charges to PG&E which funds energy efficiency programs for all

⁴⁶ CCAs may be liable for a share of unbundled stranded costs from new generation, but would then receive associated Resource Adequacy credits.

customers, regardless of supplier. The energy efficiency programs ultimately planned for the CCA will be in addition to the level of investment that would continue in the absence of a CCA. Thus, the CCA has the potential for increased energy investment and savings with an attendant further reduction in emissions due to expanded energy efficiency programs.

Greenhouse Gas (GHG) Emission Reduction

A fifth option to consider would be reduced GHG emissions. Reduced GHG emissions could mean a lower GHG content power mix, or incentives for electric vehicle purchases. For the first, the amount of renewable power in PG&E's power supply portfolio is 30 percent and will rise to 33 percent by 2020. Based on power supply strategy described previously, the estimated GHG emission reductions are forecast to range from 0 to 36,000 tons CO₂e per year by 2020 assuming a 75 percent RPS target is achieved. The baseline for comparison is the RPS resource mix versus the 50 and 75 percent resource mixes. Exhibit 35 details these reductions.

Exhibit 35			
Comparison of Average Annual GHG Emissions from Electricity, by Resource Portfolio (2020-2030)			
	RPS	50% Renewable	75% Renewable
	80% GHG-free	88% GHG-free	88% GHG-free
CO ₂ Emissions (Metric tons of CO ₂ e/year) ⁴⁷	89,812	53,887	53,887

A second method for reducing GHG emissions includes investments in electric vehicle charging stations or incentives for electric car purchases.

Economic Development Impacts

The analyses contained in this Plan has focused primarily on the direct effects of the CCA formation. However, in addition to direct effects, indirect economic effects increase the benefits of the CCA in the community. These indirect effects include increased local investments, increased disposable income due to bill savings, and the reduced costs of inputs to production (electricity)s.

Exhibit 36 shows the effects \$5 million in electric bill savings will have on the County's economy. The \$5 million rate savings represents the maximum bill savings per year achievable by through the County CCA where all 4 Participants are included. It is estimated that the electric bill savings can create approximately 42 additional jobs in the County with over \$2.0 million in labor income. It is also projected that the total value added will be approximately \$3.6 million and output close to \$5.9 million.

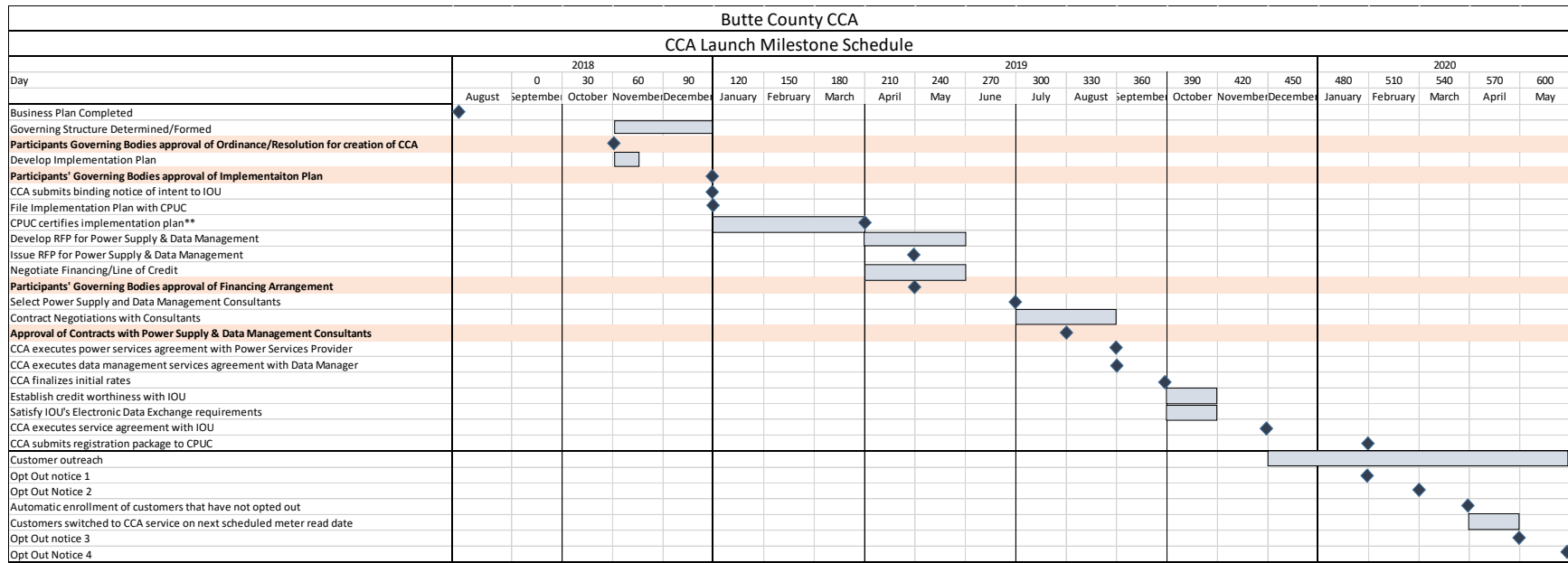
⁴⁷ Methodology follows the "GHG Accounting Methodology for LSE Portfolio Development in the IRP 2017-18 Cycle" as proposed by the CPUC staff.

Exhibit 36 \$5 Million Rate Savings Effects on the Butte County Economy				
Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	13.9	\$788,000	\$1,383,000	\$2,239,000
Indirect Effect	3.7	\$169,000	\$267,000	\$489,000
Induced Effect	24	\$1,024,000	\$1,902,000	\$3,198,000
Total Effect	41.7	\$1,981,000	\$3,552,000	\$5,926,000

These savings are based on the economic construct that households will spend some share of the increased disposable income on more goods and services. This increased spending on goods and services will then lead to producers either increasing the wages of their current employees or hiring additional employees to handle the increased demand. This in turn will give the employees a larger disposable income which they spend on goods and services and thus repeating the cycle of increased demand. From a production standpoint, lower energy prices reduce production costs and may increase company profits. The additional profits will also have a multiplier effect as firms hire additional labor, increase investment, or pay shareholders. The impacts estimated in Exhibit 35 are specific to industries located within Butte County and the interrelationships between the inputs and outputs of production.

In addition to increased economic activity due to electric bill savings, potential local projects can also create job and economic growth in the local economy. As an example of the macroeconomic activity caused by local DER deployment, this Plan assumes the installation of ten crystalline silicon, fixed mount solar systems with nameplate capacities of 1 MW each for a total capacity of 10 MW. Overall, the building of this one solar project is projected to create \$17.5 million in earnings and \$38 million in output (GDP) in the local economy along with 327 jobs during construction and 3 full-time jobs ongoing.

Appendix A – Projected Schedule



**Represents maximum possible duration for CPUC review of implementation plan

Appendix B – Pro Forma Analyses

Butte County CCA Financial ProForma											
4 Entities Participating	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Revenues from Operations (\$)											
Electric Sales Revenues	\$47,406,695	\$79,886,972	\$82,432,531	\$83,673,921	\$83,890,121	\$82,970,178	\$82,265,356	\$82,961,453	\$85,117,787	\$87,957,672	\$90,750,710
Less Uncollected Accounts	\$211,971	\$370,172	\$384,476	\$382,847	\$388,394	\$391,127	\$394,317	\$405,218	\$416,355	\$427,303	\$438,495
Total Revenues	\$47,194,723	\$79,516,799	\$82,048,056	\$83,291,074	\$83,501,727	\$82,579,051	\$81,871,039	\$82,556,235	\$84,701,432	\$87,530,369	\$90,312,215
Cost of Operations (\$)											
Cost of Energy	\$38,121,662	\$68,611,140	\$71,396,083	\$71,833,467	\$73,233,500	\$73,750,784	\$74,306,992	\$76,403,759	\$78,495,283	\$80,649,201	\$82,799,307
<i>Operating & Administrative</i>											
Billing & Data Management	\$732,677	\$1,652,645	\$1,696,824	\$1,742,183	\$1,788,755	\$1,836,572	\$1,885,667	\$1,936,075	\$1,987,830	\$2,040,969	\$2,095,528
PGE Fees	\$252,845	\$559,142	\$562,832	\$566,547	\$570,286	\$574,050	\$577,839	\$581,652	\$585,491	\$589,355	\$593,245
Consulting Services	\$1,477,300	\$1,383,732	\$1,411,407	\$1,439,635	\$1,468,427	\$1,497,796	\$1,527,752	\$1,558,307	\$1,589,473	\$1,621,263	\$1,653,688
Staffing	\$1,789,638	\$2,089,709	\$2,131,503	\$2,174,133	\$2,217,615	\$2,261,968	\$2,307,207	\$2,353,351	\$2,400,418	\$2,448,427	\$2,497,395
General & Administrative expenses	\$198,900	\$130,050	\$132,651	\$135,304	\$189,010	\$140,770	\$143,586	\$146,457	\$200,387	\$152,374	\$155,422
Debt Service	\$553,934	\$1,260,677	\$1,260,677	\$420,226	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total O&A Costs	\$5,005,294	\$7,075,954	\$7,195,893	\$6,478,027	\$6,234,094	\$6,311,156	\$6,442,051	\$6,575,843	\$6,763,599	\$6,852,388	\$6,995,278
Operating Reserves	\$3,967,680	\$3,784,354.69	\$3,379,455	\$4,933,624	\$2,384,028	\$0	\$0	\$0	\$0	\$0	\$0
Total Cost & Reserves	\$47,094,636	\$79,471,449	\$81,971,431	\$83,245,118	\$81,851,622	\$80,061,940	\$80,749,043	\$82,979,602	\$85,258,882	\$87,501,589	\$89,794,585
CCA Program Surplus/(Deficit)	\$100,087	\$45,351	\$76,625	\$45,956	\$1,650,105	\$2,517,111	\$1,121,996	(\$423,367)	(\$557,450)	\$28,780	\$517,630
CCA Cumulative Reserves	\$4,067,767	\$7,897,473	\$11,353,553	\$16,333,132	\$20,367,266	\$22,884,377	\$24,006,373	\$23,583,006	\$23,025,556	\$23,054,336	\$23,571,966
Reserve Additions											
Operating Reserve Contributions	\$4,067,767	\$3,829,706	\$3,456,080	\$4,979,580	\$4,034,133	\$2,517,111	\$1,121,996	\$0	\$0	\$28,780	\$517,630
Cash from Financing	\$6,100,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Additions	\$10,167,767	\$3,829,706	\$3,456,080	\$4,979,580	\$4,034,133	\$2,517,111	\$1,121,996	\$0	\$0	\$28,780	\$517,630
Reserve Outlays											
Start-up Funding Payments + Bonds	\$547,797	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Working Capital Repayment (Remainder)	\$0	\$0	\$0	\$2,556,793	\$0	\$0	\$0	\$0	\$0	\$0	\$0
New Programs	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Reserve Outlays	\$547,797	\$0	\$0	\$2,556,793	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Rate Stabilization Reserve Balance	\$9,619,970	\$13,449,675	\$16,905,755	\$19,328,542	\$23,362,675	\$25,879,786	\$27,001,782	\$27,001,782	\$27,001,782	\$27,030,563	\$27,548,193

Butte County CCA Financial ProForma 2 Entities Participating	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Revenues from Operations (\$)											
Electric Sales Revenues	\$38,112,404	\$65,056,983	\$66,417,838	\$67,407,515	\$67,280,071	\$66,639,116	\$65,976,705	\$67,301,377	\$69,519,494	\$70,820,002	\$73,149,862
Less Uncollected Accounts	\$170,421	\$298,188	\$309,589	\$307,501	\$311,588	\$313,778	\$316,385	\$325,100	\$334,057	\$342,759	\$351,710
Total Revenues	\$37,941,983	\$64,758,795	\$66,108,249	\$67,100,014	\$66,968,484	\$66,325,338	\$65,660,320	\$66,976,277	\$69,185,437	\$70,477,243	\$72,798,152
Cost of Operations (\$)											
Cost of Energy	\$29,864,593	\$54,330,233	\$56,535,511	\$56,881,856	\$57,990,482	\$58,400,098	\$58,840,535	\$60,500,875	\$62,157,064	\$63,862,659	\$65,565,236
<i>Operating & Administrative</i>											
Billing & Data Management	\$578,938	\$1,309,797	\$1,344,811	\$1,380,760	\$1,417,671	\$1,455,568	\$1,494,478	\$1,534,429	\$1,575,447	\$1,617,562	\$1,660,802
PGE Fees	\$199,790	\$443,146	\$446,070	\$449,014	\$451,978	\$454,961	\$457,964	\$460,986	\$464,029	\$467,091	\$470,174
Consulting Services	\$1,477,300	\$1,383,732	\$1,411,407	\$1,439,635	\$1,468,427	\$1,497,796	\$1,527,752	\$1,558,307	\$1,589,473	\$1,621,263	\$1,653,688
Staffing	\$1,789,638	\$2,089,709	\$2,131,503	\$2,174,133	\$2,217,615	\$2,261,968	\$2,307,207	\$2,353,351	\$2,400,418	\$2,448,427	\$2,497,395
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Debt Service	\$553,934	\$1,260,677	\$1,260,677	\$420,226	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total O&A Costs	\$4,798,500	\$6,617,110	\$6,727,118	\$5,999,072	\$5,744,702	\$5,811,063	\$5,930,987	\$6,053,530	\$6,229,754	\$6,306,717	\$6,437,481
Operating Reserves	\$3,189,005	\$3,047,367.15	\$2,720,293	\$3,961,498	\$1,912,056	\$0	\$0	\$0	\$0	\$0	\$0
Total Cost & Reserves	\$37,852,097	\$63,994,710	\$65,982,922	\$66,842,427	\$65,647,239	\$64,211,160	\$64,771,522	\$66,554,406	\$68,386,817	\$70,169,376	\$72,002,718
CCA Program Surplus/(Deficit)	\$89,886	\$764,085	\$125,327	\$257,588	\$1,321,244	\$2,114,178	\$888,798	\$421,871	\$798,620	\$307,867	\$795,434
CCA Cumulative Reserves	\$3,278,891	\$7,090,343	\$9,935,963	\$14,155,049	\$17,388,349	\$19,502,526	\$20,391,325	\$20,813,196	\$21,611,816	\$21,919,683	\$22,715,118
Reserve Additions											
Operating Reserve Contributions	\$3,278,891	\$3,811,452	\$2,845,620	\$4,219,086	\$3,233,300	\$2,114,178	\$888,798	\$421,871	\$798,620	\$307,867	\$795,434
Cash from Financing	\$6,100,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Additions	\$9,378,891	\$3,811,452	\$2,845,620	\$4,219,086	\$3,233,300	\$2,114,178	\$888,798	\$421,871	\$798,620	\$307,867	\$795,434
Reserve Outlays											
Start-up Funding Payments + Bonds	\$454,726	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Working Capital Repayment (Remain	\$0	\$0	\$0	\$2,556,793	\$0	\$0	\$0	\$0	\$0	\$0	\$0
New Programs	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Reserve Outlays	\$454,726	\$0	\$0	\$2,556,793	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Rate Stabilization Reserve Balance	\$8,924,165	\$12,735,617	\$15,581,237	\$17,243,530	\$20,476,830	\$22,591,008	\$23,479,806	\$23,901,678	\$24,700,298	\$25,008,165	\$25,803,599

Appendix C – Staffing and Infrastructure Detail

Costs by Year											
Full Staff											
4 Participants	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Cost of Energy	\$38,121,662	\$68,611,140	\$71,396,083	\$71,833,467	\$73,233,500	\$73,750,784	\$74,306,992	\$76,403,759	\$78,495,283	\$80,649,201	\$82,799,307
Billing and Data Management	\$732,677	\$1,652,645	\$1,696,824	\$1,742,183	\$1,788,755	\$1,836,572	\$1,885,667	\$1,936,075	\$1,987,830	\$2,040,969	\$2,095,528
PG&E Fees	\$252,845	\$559,142	\$562,832	\$566,547	\$570,286	\$574,050	\$577,839	\$581,652	\$585,491	\$589,355	\$593,245
General & Administrative Expenses											
Computers	\$51,000	\$0	\$0	\$0	\$51,000	\$0	\$0	\$0	\$51,000	\$0	\$0
Furnishings	\$20,400	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Office Space	\$15,300	\$15,606	\$15,918	\$16,236	\$16,561	\$16,892	\$17,230	\$17,575	\$17,926	\$18,285	\$18,651
Utilities and other Office supplies	\$10,200	\$10,404	\$10,612	\$10,824	\$11,041	\$11,262	\$11,487	\$11,717	\$11,951	\$12,190	\$12,434
Miscellaneous	\$102,000	\$104,040	\$106,121	\$108,243	\$110,408	\$112,616	\$114,869	\$117,166	\$119,509	\$121,899	\$124,337
Total Infrastructure Costs	\$198,900	\$130,050	\$132,651	\$135,304	\$189,010	\$140,770	\$143,586	\$146,457	\$200,387	\$152,374	\$155,422
Consulting Services											
Legal/Regulatory	\$275,400	\$374,544	\$382,035	\$389,676	\$397,469	\$405,418	\$413,527	\$421,797	\$430,233	\$438,838	\$447,615
Advertising/Communication	\$187,000	\$104,040	\$106,121	\$108,243	\$110,408	\$112,616	\$114,869	\$117,166	\$119,509	\$121,899	\$124,337
Technical Consultants	\$122,400	\$124,848	\$127,345	\$129,892	\$132,490	\$135,139	\$137,842	\$140,599	\$143,411	\$146,279	\$149,205
Data Management	\$732,677	\$1,652,645	\$1,696,824	\$1,742,183	\$1,788,755	\$1,836,572	\$1,885,667	\$1,936,075	\$1,987,830	\$2,040,969	\$2,095,528
Financial Consulting	\$510,000	\$520,200	\$530,604	\$541,216	\$552,040	\$563,081	\$574,343	\$585,830	\$597,546	\$609,497	\$621,687
CalCCA Annual Dues	\$76,500	\$104,040	\$106,121	\$108,243	\$110,408	\$112,616	\$114,869	\$117,166	\$119,509	\$121,899	\$124,337
Other consulting/city functions	\$306,000	\$156,060	\$159,181	\$162,365	\$165,612	\$168,924	\$172,303	\$175,749	\$179,264	\$182,849	\$186,506
Total Consulting Costs	\$2,209,977	\$3,036,377	\$3,108,230	\$3,181,818	\$3,257,182	\$3,334,368	\$3,413,419	\$3,494,382	\$3,577,303	\$3,662,231	\$3,749,216
Staffing											
Chief Executive Officer	\$306,000	\$312,120	\$318,362	\$324,730	\$331,224	\$337,849	\$344,606	\$351,498	\$358,528	\$365,698	\$373,012
Director of Power Resources	\$179,005	\$243,447	\$248,316	\$253,282	\$258,348	\$263,515	\$268,785	\$274,160	\$279,644	\$285,237	\$290,941
Director of Administration and Finance	\$179,005	\$243,446	\$248,315	\$253,282	\$258,347	\$263,514	\$268,784	\$274,160	\$279,643	\$285,236	\$290,941
Director of Marketing and Public Affairs	\$238,673	\$243,447	\$248,316	\$253,282	\$258,348	\$263,515	\$268,785	\$274,160	\$279,644	\$285,237	\$290,941
Power Supply Compliance Specialist	\$145,610	\$198,030	\$201,990	\$206,030	\$210,151	\$214,354	\$218,641	\$223,014	\$227,474	\$232,023	\$236,664
Community Outreach Manager	\$145,610	\$198,030	\$201,990	\$206,030	\$210,151	\$214,354	\$218,641	\$223,014	\$227,474	\$232,023	\$236,664
Account Service Manager	\$187,444	\$191,193	\$195,017	\$198,917	\$202,895	\$206,953	\$211,092	\$215,314	\$219,620	\$224,013	\$228,493
Account Representatives	\$112,162	\$114,405	\$116,693	\$119,027	\$121,408	\$123,836	\$126,313	\$128,839	\$131,416	\$134,044	\$136,725
Communication Specialists	\$168,071	\$171,432	\$174,861	\$178,358	\$181,925	\$185,564	\$189,275	\$193,061	\$196,922	\$200,860	\$204,877
Administrative Analysts	\$128,058	\$174,159	\$177,643	\$181,195	\$184,819	\$188,516	\$192,286	\$196,132	\$200,054	\$204,056	\$208,137
Total Staffing Costs	\$1,789,638	\$2,089,709	\$2,131,503	\$2,174,133	\$2,217,615	\$2,261,968	\$2,307,207	\$2,353,351	\$2,400,418	\$2,448,427	\$2,497,395
Debt Service	\$553,934	\$1,260,677	\$1,260,677	\$1,260,677	\$1,260,677	\$706,743	\$0	\$0	\$0	\$0	\$0
Total Expenses	\$43,859,633	\$77,339,739	\$80,288,799	\$80,894,128	\$82,517,025	\$82,605,255	\$82,634,710	\$84,915,677	\$87,246,712	\$89,542,557	\$91,890,112

Costs by Year											
Full Staff											
2 Participants	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Cost of Energy	\$29,864,593	\$54,330,233	\$56,535,511	\$56,881,856	\$57,990,482	\$58,400,098	\$58,840,535	\$60,500,875	\$62,157,064	\$63,862,659	\$65,565,236
Billing and Data Management	\$578,938	\$1,309,797	\$1,344,811	\$1,380,760	\$1,417,671	\$1,455,568	\$1,494,478	\$1,534,429	\$1,575,447	\$1,617,562	\$1,660,802
PG&E Fees	\$199,790	\$443,146	\$446,070	\$449,014	\$451,978	\$454,961	\$457,964	\$460,986	\$464,029	\$467,091	\$470,174
General & Administrative Expenses											
Computers	\$51,000	\$0	\$0	\$0	\$51,000	\$0	\$0	\$0	\$51,000	\$0	\$0
Furnishings	\$20,400	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Office Space	\$15,300	\$15,606	\$15,918	\$16,236	\$16,561	\$16,892	\$17,230	\$17,575	\$17,926	\$18,285	\$18,651
Utilities and other Office supplies	\$10,200	\$10,404	\$10,612	\$10,824	\$11,041	\$11,262	\$11,487	\$11,717	\$11,951	\$12,190	\$12,434
Miscellaneous	\$102,000	\$104,040	\$106,121	\$108,243	\$110,408	\$112,616	\$114,869	\$117,166	\$119,509	\$121,899	\$124,337
Total Infrastructure Costs	\$198,900	\$130,050	\$132,651	\$135,304	\$189,010	\$140,770	\$143,586	\$146,457	\$200,387	\$152,374	\$155,422
Consulting Services											
Legal/Regulatory	\$275,400	\$374,544	\$382,035	\$389,676	\$397,469	\$405,418	\$413,527	\$421,797	\$430,233	\$438,838	\$447,615
Advertising/Communication	\$187,000	\$104,040	\$106,121	\$108,243	\$110,408	\$112,616	\$114,869	\$117,166	\$119,509	\$121,899	\$124,337
Technical Consultants	\$122,400	\$124,848	\$127,345	\$129,892	\$132,490	\$135,139	\$137,842	\$140,599	\$143,411	\$146,279	\$149,205
Data Management	\$578,938	\$1,309,797	\$1,344,811	\$1,380,760	\$1,417,671	\$1,455,568	\$1,494,478	\$1,534,429	\$1,575,447	\$1,617,562	\$1,660,802
Financial Consulting	\$510,000	\$520,200	\$530,604	\$541,216	\$552,040	\$563,081	\$574,343	\$585,830	\$597,546	\$609,497	\$621,687
CalCCA Annual Dues	\$76,500	\$104,040	\$106,121	\$108,243	\$110,408	\$112,616	\$114,869	\$117,166	\$119,509	\$121,899	\$124,337
Other consulting/city functions	\$306,000	\$156,060	\$159,181	\$162,365	\$165,612	\$168,924	\$172,303	\$175,749	\$179,264	\$182,849	\$186,506
Total Consulting Costs	\$2,056,238	\$2,693,529	\$2,756,217	\$2,820,395	\$2,886,098	\$2,953,364	\$3,022,230	\$3,092,736	\$3,164,920	\$3,238,824	\$3,314,490
Staffing											
Chief Executive Officer	\$306,000	\$312,120	\$318,362	\$324,730	\$331,224	\$337,849	\$344,606	\$351,498	\$358,528	\$365,698	\$373,012
Director of Power Resources	\$179,005	\$243,447	\$248,316	\$253,282	\$258,348	\$263,515	\$268,785	\$274,160	\$279,644	\$285,237	\$290,941
Director of Administration and Finance	\$179,005	\$243,446	\$248,315	\$253,282	\$258,347	\$263,514	\$268,784	\$274,160	\$279,643	\$285,236	\$290,941
Director of Marketing and Public Affairs	\$238,673	\$243,447	\$248,316	\$253,282	\$258,348	\$263,515	\$268,785	\$274,160	\$279,644	\$285,237	\$290,941
Power Supply Compliance Specialist	\$145,610	\$198,030	\$201,990	\$206,030	\$210,151	\$214,354	\$218,641	\$223,014	\$227,474	\$232,023	\$236,664
Community Outreach Manager	\$145,610	\$198,030	\$201,990	\$206,030	\$210,151	\$214,354	\$218,641	\$223,014	\$227,474	\$232,023	\$236,664
Account Service Manager	\$187,444	\$191,193	\$195,017	\$198,917	\$202,895	\$206,953	\$211,092	\$215,314	\$219,620	\$224,013	\$228,493
Account Representatives	\$112,162	\$114,405	\$116,693	\$119,027	\$121,408	\$123,836	\$126,313	\$128,839	\$131,416	\$134,044	\$136,725
Communication Specialists	\$168,071	\$171,432	\$174,861	\$178,358	\$181,925	\$185,564	\$189,275	\$193,061	\$196,922	\$200,860	\$204,877
Administrative Analysts	\$128,058	\$174,159	\$177,643	\$181,195	\$184,819	\$188,516	\$192,286	\$196,132	\$200,054	\$204,056	\$208,137
Total Staffing Costs	\$1,789,638	\$2,089,709	\$2,131,503	\$2,174,133	\$2,217,615	\$2,261,968	\$2,307,207	\$2,353,351	\$2,400,418	\$2,448,427	\$2,497,395
Debt Service	\$553,934	\$1,260,677	\$1,260,677	\$1,260,677	\$1,260,677	\$706,743	\$0	\$0	\$0	\$0	\$0
Total Expenses	\$35,242,030	\$62,257,140	\$64,607,440	\$65,102,140	\$66,413,531	\$66,373,471	\$66,266,000	\$68,088,834	\$69,962,264	\$71,786,938	\$73,663,520

Appendix D – Butte County CCA Cash Flow Analysis

Base Case: 4 Participants

Butte County CCA Cash Flow - 2020 RPS Base Case - 2% Rate Savings Target	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Cash Flow												
Revenues												
CCA Generation Revenues	\$0	\$0	\$0	\$2,517,325	\$2,722,748	\$2,954,468	\$3,221,482	\$9,263,122	\$7,532,591	\$6,261,792	\$6,210,965	\$6,725,492
CCA PCIA Revenue	\$0	\$0	\$0	\$775,920	\$847,042	\$930,729	\$1,018,060	\$3,219,000	\$2,592,464	\$2,149,020	\$2,134,173	\$2,326,585
CCA Revenues based on Projected Rates	\$0	\$0	\$0	\$3,293,244	\$3,569,791	\$3,885,197	\$4,239,542	\$12,482,122	\$10,125,055	\$8,410,812	\$8,345,138	\$9,052,077
Expenses												
Power Supply												
Power Procurement	\$0	\$0	\$0	\$1,813,994	\$1,946,760	\$2,169,076	\$2,648,019	\$7,804,048	\$6,348,223	\$5,009,405	\$4,936,008	\$5,446,130
Non-bypassable charges	\$0	\$0	\$0	\$775,920	\$847,042	\$930,729	\$1,018,060	\$3,219,000	\$2,592,464	\$2,149,020	\$2,134,173	\$2,326,585
Total Power Supply	\$0	\$0	\$0	\$2,589,914	\$2,793,802	\$3,099,805	\$3,666,079	\$11,023,048	\$8,940,687	\$7,158,425	\$7,070,181	\$7,772,715
CCA Program Costs												
Data Management	\$0	\$0	\$0	\$15,384	\$15,379	\$15,382	\$15,392	\$135,105	\$133,971	\$134,041	\$133,930	\$134,093
IOU Fees (including Billing)	\$0	\$0	\$0	\$5,309	\$5,307	\$5,308	\$5,312	\$46,624	\$46,233	\$46,257	\$46,219	\$46,275
Consultants	\$78,200	\$95,200	\$95,200	\$134,300	\$134,300	\$134,300	\$134,300	\$134,300	\$134,300	\$134,300	\$134,300	\$134,300
Uncollected accounts	\$0	\$0	\$0	\$10,853	\$11,577	\$12,689	\$15,084	\$41,070	\$33,789	\$27,382	\$27,015	\$29,566
Staffing	\$84,362	\$84,362	\$84,362	\$170,728	\$170,728	\$170,728	\$170,728	\$170,728	\$170,728	\$170,728	\$170,728	\$170,728
General & Admin	\$46,325	\$10,625	\$10,625	\$46,325	\$10,625	\$10,625	\$10,625	\$10,625	\$10,625	\$10,625	\$10,625	\$10,625
Debt Payment	\$0	\$0	\$0	\$0	\$47,753	\$47,753	\$47,753	\$47,753	\$47,753	\$105,056	\$105,056	\$105,056
CPUC Bond	\$0	\$0	\$0	\$0	\$0	\$100,000	\$0	\$0	\$0	\$0	\$0	\$0
PG&E Bond	\$0	\$0	\$0	\$0	\$447,797	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Expenses (excl PCIA)	\$208,887	\$190,187	\$190,187	\$2,181,509	\$2,774,848	\$2,650,479	\$3,031,821	\$8,255,149	\$6,791,651	\$5,503,753	\$5,429,951	\$5,942,681
Reserve Needs												
Beginning Balance	0	\$391,113	\$200,925	\$10,738	\$2,127,838	(\$529,621)	(\$455,841)	(\$301,362)	(\$581,119)	(\$2,741,085)	(\$454,575)	\$1,440,739
Additions	\$0	\$0	\$0	\$0	\$0	\$2,517,325	\$2,722,748	\$2,954,468	\$3,221,482	\$9,263,122	\$7,532,591	\$6,261,792
Financing	\$600,000	\$0	\$0	\$2,500,000	\$0	\$0	\$0	\$0	\$3,000,000	\$0	\$0	\$0
Working capital repayment	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Reductions	\$208,887	\$190,187	\$190,187	\$382,899	\$2,657,460	\$2,443,544	\$2,568,269	\$3,234,225	\$8,381,447	\$6,976,612	\$5,637,277	\$5,566,651
Ending Balance	\$391,113	\$200,925	\$10,738	\$2,127,838	(\$529,621)	(\$455,841)	(\$301,362)	(\$581,119)	(\$2,741,085)	(\$454,575)	\$1,440,739	\$2,135,879
Cash flow												
Beginning Balance	\$0	\$391,113	\$200,925	\$10,738	\$2,127,838	(\$529,621)	(\$455,841)	(\$301,362)	(\$581,119)	(\$2,741,085)	(\$454,575)	\$1,440,739
Additions												
Revenues	\$0	\$0	\$0	\$0	\$0	\$2,517,325	\$2,722,748	\$2,954,468	\$3,221,482	\$9,263,122	\$7,532,591	\$6,261,792
Financing	\$600,000	\$0	\$0	\$2,500,000	\$0	\$0	\$0	\$0	\$3,000,000	\$0	\$0	\$0
Reductions including debt service	\$208,887	\$190,187	\$190,187	\$382,899	\$2,657,460	\$2,443,544	\$2,568,269	\$3,234,225	\$8,381,447	\$6,976,612	\$5,637,277	\$5,566,651
Ending Balance	\$391,113	\$200,925	\$10,738	\$2,127,838	(\$529,621)	(\$455,841)	(\$301,362)	(\$581,119)	(\$2,741,085)	(\$454,575)	\$1,440,739	\$2,135,879

Butte County CCA												
Cash Flow - 2021												
RPS Base Case - 2% Rate Savings Target	2021	2021	2021	2021	2021	2021	2021	2021	2021	2021	2021	2021
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Cash Flow												
Revenues												
CCA Generation Revenues	\$6,270,169	\$5,664,880	\$5,247,226	\$5,469,416	\$6,395,218	\$7,771,402	\$8,882,523	\$8,800,547	\$7,156,321	\$5,948,951	\$5,900,783	\$6,389,735
CCA PCIA Revenue	\$2,737,838	\$2,455,458	\$2,263,491	\$2,351,488	\$2,788,934	\$3,431,363	\$3,938,847	\$3,888,295	\$3,131,489	\$2,595,844	\$2,577,910	\$2,810,329
CCA Revenues based on Projected Rates	\$9,008,008	\$8,120,338	\$7,510,717	\$7,820,904	\$9,184,152	\$11,202,765	\$12,821,370	\$12,688,842	\$10,287,810	\$8,544,795	\$8,478,693	\$9,200,064
Expenses												
Power Supply												
Power Procurement	\$5,521,392	\$4,914,885	\$4,439,747	\$4,372,924	\$5,054,624	\$6,272,487	\$7,709,501	\$7,849,983	\$6,410,744	\$5,219,398	\$5,138,749	\$5,706,707
Non-bypassable charges	\$2,737,838	\$2,455,458	\$2,263,491	\$2,351,488	\$2,788,934	\$3,431,363	\$3,938,847	\$3,888,295	\$3,131,489	\$2,595,844	\$2,577,910	\$2,810,329
Total Power Supply	\$8,259,231	\$7,370,342	\$6,703,238	\$6,724,412	\$7,843,558	\$9,703,850	\$11,648,348	\$11,738,278	\$9,542,233	\$7,815,243	\$7,716,659	\$8,517,036
CCA Program Costs												
Data Management	\$137,349	\$137,016	\$137,060	\$137,192	\$137,503	\$138,988	\$138,457	\$138,716	\$137,552	\$137,625	\$137,510	\$137,678
IOU Fees (including Billing)	\$46,470	\$46,357	\$46,372	\$46,416	\$46,521	\$47,024	\$46,844	\$46,932	\$46,538	\$46,563	\$46,524	\$46,581
Consultants	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311
Uncollected accounts	\$29,866	\$26,833	\$24,457	\$24,123	\$27,532	\$33,624	\$40,808	\$41,511	\$34,313	\$28,357	\$27,953	\$30,793
Staffing	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142
General & Admin	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838
Debt Payment	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056
CPUC Bond	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
PG&E Bond	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Expenses (excl PCIA)	\$6,003,075	\$5,393,422	\$4,915,923	\$4,848,811	\$5,534,025	\$6,758,482	\$8,202,501	\$8,343,774	\$6,896,942	\$5,699,665	\$5,618,573	\$6,189,428
Reserve Needs												
Beginning Balance	\$2,135,879	\$2,281,682	\$2,870,228	\$3,612,276	\$4,224,331	\$4,481,729	\$4,271,539	\$3,762,814	\$3,192,208	\$3,600,996	\$5,372,908	\$6,692,497
Additions	\$6,210,965	\$6,725,492	\$6,270,169	\$5,664,880	\$5,247,226	\$5,469,416	\$6,395,218	\$7,771,402	\$8,882,523	\$8,800,547	\$7,156,321	\$5,948,951
Financing	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Working capital repayment	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Reductions	\$6,065,162	\$6,136,945	\$5,528,121	\$5,052,826	\$4,989,828	\$5,679,606	\$6,903,943	\$8,342,008	\$8,473,734	\$7,028,635	\$5,836,733	\$5,759,148
Ending Balance	\$2,281,682	\$2,870,228	\$3,612,276	\$4,224,331	\$4,481,729	\$4,271,539	\$3,762,814	\$3,192,208	\$3,600,996	\$5,372,908	\$6,692,497	\$6,882,299
Cash flow												
Beginning Balance	\$2,135,879	\$2,281,682	\$2,870,228	\$3,612,276	\$4,224,331	\$4,481,729	\$4,271,539	\$3,762,814	\$3,192,208	\$3,600,996	\$5,372,908	\$6,692,497
Additions												
Revenues	\$6,210,965	\$6,725,492	\$6,270,169	\$5,664,880	\$5,247,226	\$5,469,416	\$6,395,218	\$7,771,402	\$8,882,523	\$8,800,547	\$7,156,321	\$5,948,951
Financing	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Reductions including debt service	\$6,065,162	\$6,136,945	\$5,528,121	\$5,052,826	\$4,989,828	\$5,679,606	\$6,903,943	\$8,342,008	\$8,473,734	\$7,028,635	\$5,836,733	\$5,759,148
Ending Balance	\$2,281,682	\$2,870,228	\$3,612,276	\$4,224,331	\$4,481,729	\$4,271,539	\$3,762,814	\$3,192,208	\$3,600,996	\$5,372,908	\$6,692,497	\$6,882,299

2 Participants: Chico and Unincorporated Butte County

Butte County CCA												
Cash Flow - 2020												
RPS Base Case - 2% Rate Savings Target	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Cash Flow												
Revenues												
CCA Generation Revenues	\$0	\$0	\$0	\$1,931,664	\$2,098,206	\$2,256,904	\$2,460,004	\$7,605,046	\$6,180,459	\$5,161,022	\$5,009,616	\$5,412,874
CCA PCIA Revenue	\$0	\$0	\$0	\$472,937	\$518,845	\$566,055	\$618,629	\$2,123,046	\$1,708,668	\$1,422,024	\$1,381,787	\$1,503,359
CCA Revenues based on Projected Rates	\$0	\$0	\$0	\$2,404,601	\$2,617,051	\$2,822,959	\$3,078,633	\$9,728,092	\$7,889,127	\$6,583,046	\$6,391,403	\$6,916,233
Expenses												
Power Supply												
Power Procurement	\$0	\$0	\$0	\$1,353,882	\$1,458,792	\$1,610,241	\$1,965,730	\$6,244,250	\$5,077,074	\$4,026,474	\$3,882,221	\$4,276,254
Non-bypassable charges	\$0	\$0	\$0	\$472,937	\$518,845	\$566,055	\$618,629	\$2,123,046	\$1,708,668	\$1,422,024	\$1,381,787	\$1,503,359
Total Power Supply	\$0	\$0	\$0	\$1,826,819	\$1,977,637	\$2,176,296	\$2,584,359	\$8,367,296	\$6,785,742	\$5,448,498	\$5,264,009	\$5,779,613
CCA Program Costs												
Data Management	\$0	\$0	\$0	\$11,833	\$11,825	\$11,834	\$11,846	\$107,224	\$106,098	\$106,081	\$106,015	\$106,181
IOU Fees (including Billing)	\$0	\$0	\$0	\$4,083	\$4,081	\$4,084	\$4,088	\$37,003	\$36,614	\$36,608	\$36,586	\$36,643
Consultants	\$78,200	\$95,200	\$95,200	\$134,300	\$134,300	\$134,300	\$134,300	\$134,300	\$134,300	\$134,300	\$134,300	\$134,300
Uncollected accounts	\$0	\$0	\$0	\$8,547	\$9,131	\$9,889	\$11,666	\$33,223	\$27,385	\$22,419	\$21,698	\$23,668
Staffing	\$84,362	\$84,362	\$84,362	\$170,728	\$170,728	\$170,728	\$170,728	\$170,728	\$170,728	\$170,728	\$170,728	\$170,728
General & Admin	\$46,325	\$10,625	\$10,625	\$46,325	\$10,625	\$10,625	\$10,625	\$10,625	\$10,625	\$10,625	\$10,625	\$10,625
Debt Payment	\$0	\$0	\$0	\$0	\$47,753	\$47,753	\$47,753	\$47,753	\$47,753	\$105,056	\$105,056	\$105,056
CPUC Bond	\$0	\$0	\$0	\$0	\$0	\$100,000	\$0	\$0	\$0	\$0	\$0	\$0
PG&E Bond	\$0	\$0	\$0	\$0	\$354,726	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Expenses (excl PCIA)	\$208,887	\$190,187	\$190,187	\$1,717,865	\$2,190,135	\$2,087,619	\$2,344,890	\$6,677,882	\$5,504,480	\$4,506,211	\$4,361,214	\$4,757,274
Reserve Needs												
Beginning Balance	0	\$391,113	\$200,925	\$10,738	\$2,134,922	\$37,871	\$21,532	\$118,491	(\$131,191)	(\$1,448,942)	\$493,213	\$2,062,190
Additions	\$0	\$0	\$0	\$0	\$0	\$1,931,664	\$2,098,206	\$2,256,904	\$2,460,004	\$7,605,046	\$6,180,459	\$5,161,022
Financing	\$600,000	\$0	\$0	\$2,500,000	\$0	\$0	\$0	\$0	\$3,000,000	\$0	\$0	\$0
Working capital repayment	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Reductions	\$208,887	\$190,187	\$190,187	\$375,815	\$2,097,051	\$1,948,003	\$2,001,247	\$2,506,586	\$6,777,754	\$5,662,892	\$4,611,481	\$4,469,423
Ending Balance	\$391,113	\$200,925	\$10,738	\$2,134,922	\$37,871	\$21,532	\$118,491	(\$131,191)	(\$1,448,942)	\$493,213	\$2,062,190	\$2,753,789
Cash flow												
Beginning Balance	\$0	\$391,113	\$200,925	\$10,738	\$2,134,922	\$37,871	\$21,532	\$118,491	(\$131,191)	(\$1,448,942)	\$493,213	\$2,062,190
Additions												
Revenues	\$0	\$0	\$0	\$0	\$0	\$1,931,664	\$2,098,206	\$2,256,904	\$2,460,004	\$7,605,046	\$6,180,459	\$5,161,022
Financing	\$600,000	\$0	\$0	\$2,500,000	\$0	\$0	\$0	\$0	\$3,000,000	\$0	\$0	\$0
Reductions including debt service	\$208,887	\$190,187	\$190,187	\$375,815	\$2,097,051	\$1,948,003	\$2,001,247	\$2,506,586	\$6,777,754	\$5,662,892	\$4,611,481	\$4,469,423
Ending Balance	\$391,113	\$200,925	\$10,738	\$2,134,922	\$37,871	\$21,532	\$118,491	(\$131,191)	(\$1,448,942)	\$493,213	\$2,062,190	\$2,753,789

Butte County CCA												
Cash Flow - 2021												
RPS Base Case - 2% Rate Savings Target	2021	2021	2021	2021	2021	2021	2021	2021	2021	2021	2021	2021
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Cash Flow												
Revenues												
CCA Generation Revenues	\$5,062,316	\$4,559,756	\$4,203,541	\$4,411,247	\$5,241,371	\$6,362,632	\$7,262,270	\$7,241,355	\$5,884,803	\$4,914,084	\$4,770,031	\$5,154,112
CCA PCIA Revenue	\$1,444,605	\$1,291,601	\$1,184,934	\$1,240,094	\$1,496,851	\$1,841,564	\$2,110,448	\$2,094,317	\$1,685,546	\$1,402,781	\$1,363,089	\$1,483,016
CCA Revenues based on Projected Rates	\$6,506,921	\$5,851,357	\$5,388,475	\$5,651,341	\$6,738,222	\$8,204,196	\$9,372,719	\$9,335,672	\$7,570,349	\$6,316,865	\$6,133,120	\$6,637,128
Expenses												
Power Supply												
Power Procurement	\$4,337,654	\$3,845,580	\$3,454,634	\$3,424,473	\$4,023,901	\$4,991,827	\$6,128,856	\$6,281,004	\$5,127,076	\$4,195,263	\$4,041,680	\$4,480,856
Non-bypassable charges	\$1,444,605	\$1,291,601	\$1,184,934	\$1,240,094	\$1,496,851	\$1,841,564	\$2,110,448	\$2,094,317	\$1,685,546	\$1,402,781	\$1,363,089	\$1,483,016
Total Power Supply	\$5,782,259	\$5,137,181	\$4,639,568	\$4,664,568	\$5,520,752	\$6,833,391	\$8,239,304	\$8,375,321	\$6,812,622	\$5,598,044	\$5,404,768	\$5,963,872
CCA Program Costs												
Data Management	\$108,802	\$108,490	\$108,607	\$108,672	\$109,020	\$110,477	\$109,918	\$110,091	\$108,935	\$108,917	\$108,849	\$109,020
IOU Fees (including Billing)	\$36,811	\$36,705	\$36,745	\$36,767	\$36,885	\$37,378	\$37,189	\$37,247	\$36,856	\$36,850	\$36,827	\$36,885
Consultants	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311	\$115,311
Uncollected accounts	\$23,899	\$21,438	\$19,484	\$19,333	\$22,331	\$27,173	\$32,857	\$33,618	\$27,846	\$23,187	\$22,419	\$24,615
Staffing	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142	\$174,142
General & Admin	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838	\$10,838
Debt Payment	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056	\$105,056
CPUC Bond	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
PG&E Bond	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Expenses (excl PCIA)	\$4,803,712	\$4,309,071	\$3,916,210	\$3,885,921	\$4,488,464	\$5,461,725	\$6,604,249	\$6,757,217	\$5,597,126	\$4,660,648	\$4,506,273	\$4,947,704
Reserve Needs												
Beginning Balance	\$2,753,789	\$2,912,292	\$3,415,531	\$4,062,084	\$4,597,087	\$4,802,572	\$4,609,543	\$4,273,775	\$3,921,248	\$4,323,530	\$5,863,507	\$6,979,603
Additions	\$5,009,616	\$5,412,874	\$5,062,316	\$4,559,756	\$4,203,541	\$4,411,247	\$5,241,371	\$6,362,632	\$7,262,270	\$7,241,355	\$5,884,803	\$4,914,084
Financing	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Working capital repayment	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Reductions	\$4,851,113	\$4,909,635	\$4,415,763	\$4,024,753	\$3,998,056	\$4,604,277	\$5,577,138	\$6,715,159	\$6,859,988	\$5,701,378	\$4,768,706	\$4,617,547
Ending Balance	\$2,912,292	\$3,415,531	\$4,062,084	\$4,597,087	\$4,802,572	\$4,609,543	\$4,273,775	\$3,921,248	\$4,323,530	\$5,863,507	\$6,979,603	\$7,276,141
Cash flow												
Beginning Balance	\$2,753,789	\$2,912,292	\$3,415,531	\$4,062,084	\$4,597,087	\$4,802,572	\$4,609,543	\$4,273,775	\$3,921,248	\$4,323,530	\$5,863,507	\$6,979,603
Additions												
Revenues	\$5,009,616	\$5,412,874	\$5,062,316	\$4,559,756	\$4,203,541	\$4,411,247	\$5,241,371	\$6,362,632	\$7,262,270	\$7,241,355	\$5,884,803	\$4,914,084
Financing	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Reductions including debt service	\$4,851,113	\$4,909,635	\$4,415,763	\$4,024,753	\$3,998,056	\$4,604,277	\$5,577,138	\$6,715,159	\$6,859,988	\$5,701,378	\$4,768,706	\$4,617,547
Ending Balance	\$2,912,292	\$3,415,531	\$4,062,084	\$4,597,087	\$4,802,572	\$4,609,543	\$4,273,775	\$3,921,248	\$4,323,530	\$5,863,507	\$6,979,603	\$7,276,141

Appendix E – Glossary

aMW: Average annual Megawatt. A unit of energy output over a year that is equal to the energy produced by the continuous operation of one megawatt of capacity over a period of time (8,760 megawatt-hours).

Basis Difference (Natural Gas): The difference between the price of natural gas at the Henry Hub natural gas distribution point in Erath, Louisiana, which serves as a central pricing point for natural gas futures, and the natural gas price at another hub location (such as for Southern California).

Buckets: Buckets 1-3 refer to different types of renewable energy contracts according to the Renewable Portfolio Standards requirements. Bucket 1 are traditional contracts for delivery of electricity directly from a generator within or immediately connected to California. These are the most valuable and make up the majority of the RECS that are required for LSEs to be RPS compliant. Buckets 2 and 3 have different levels of intermediation between the generation and delivery of the energy from the generating resources.

Bundled Customers: Electricity customers who receive all their services (transmission, distribution and supply) from the Investor-Owned Utility.

California Independent System Operator (CAISO): The organization responsible for managing the electricity grid and system reliability within the former service territories of the three California IOUs.

California Clean Power (CCP): A private company providing wholesale supply and other services to CCAs.

California Energy Commission (CEC): The state regulatory agency with primary responsibility for enforcing the Renewable Portfolio Standards law as well as a number of other, electric-industry related rules and policies.

California Public Utilities Commission (CPUC): The state agency with primary responsibility for regulating IOUs, as well as Direct Access (ESP) and CCA entities.

Capacity Factor: the ratio of an electricity generating resource's actual output over a period of time to its potential output if it were possible to operate at full nameplate capacity continuously over the same period. Intermittent renewable resources, like wind and solar, typically have lower capacity factors than traditional fossil fuel plants because the wind and sun do not blow or shine consistently.

CleanPowerSF: CCA program serving customers within the City of San Francisco. CleanPowerSF began service to 7,800 "Phase 1" customers in May 2016.

Climate Zone: A geographic area with distinct climate patterns necessitating varied energy demands for heating and cooling.

Coincident Peak: Demand for electricity among a group of customers that coincides with peak total demand on the system.

Community Choice Aggregation (CCA): Method available through California law to allow Cities and Counties to aggregate their citizens and become their electric generation provider.

Community Choice Energy: A City, County or Joint Powers Agency procuring wholesale power to supply to retail customers.

Community Choice Partners: A private company providing services to CCAs in California.

Congestion Revenue Rights (CRRs): Financial rights that are allocated to Load Serving Entities to offset differences between the prices where their generation is located and the price that they pay to serve their load. These rights may also be bought and sold through an auction process. CRRs are part of the CAISO market design.

Demand Side Resources: Energy efficiency and load management programs that reduce the amount of energy that would otherwise be consumed by a customer of an electric utility.

Demand Response (DR): Electric customers who have a contract to modify their electricity usage in response to requests from a utility or other electric entity. Typically, will be used to lower demand during peak energy periods, but may be used to raise demand during periods of excess supply.

Direct Access: Large power consumers which have opted to procure their wholesale supply independently of the IOUs through an Electricity Service Provider.

EI (Edison Electric Institute) Agreement: A commonly used enabling agreement for transacting in wholesale power markets.

Electric Service Providers (ESP): An alternative to traditional utilities. They provide electric services to retail customers in electricity markets that have opened their retail electricity markets to competition. In California the Direct Access program allows large electricity customers to opt-out of utility-supplied power in favor of ESP-provided power. However, there is a cap on the amount of Direct Access load permitted in the state.

Electric Tariffs: The rates and terms applied to customers by electric utilities. Typically have different tariffs for different classes of customers and possibly for different supply mixes.

Enterprise Model: When a City or County establish a CCA by themselves as an enterprise within the municipal government.

Federal Tax Incentives: There are two Federal tax incentive programs. The Investment Tax Credit (ITC) provides payments to solar generators. The Production Tax Credit (PTC) provides payments to wind generators.

Feed-in Tariff (FIT): A tariff that specifies what generators who are connected to the distribution system are paid.

Forward Prices: Prices for contracts that specify a future delivery date for a commodity or other security. There are active, liquid forward markets for electricity to be delivered at a number of Western electricity trading hubs, including NP15 which corresponds closely to the price location which the City of Davis will pay to supply its load.

Implied Heat Rate: A calculation of the day-ahead electric price divided by the day-ahead natural gas price. Implied heat rate is also known as the 'break-even natural gas market heat rate,' because only a natural gas generator with an operating heat rate (measure of unit efficiency) below the implied heat rate value can make money by burning natural gas to generate power. Natural gas plants with a higher operating heat rate cannot make money at the prevailing electricity and natural gas prices.

Integrated Resource Plan: A utility's plan for future generation supply needs.

Investor-Owned Utility (IOU): For profit regulated utilities. Within California there are three IOUs - Pacific Gas and Electric, Southern California Edison and San Diego Gas and Electric.

ISDA (International Swaps and Derivatives Association): Popular form of bilateral contract to facilitate wholesale electricity trading.

Joint Powers Agency (JPA): A legal entity comprising two or more public entities. The JPA provides a separation of financial and legal responsibility from its member entities.

Lancaster Choice Energy (LCE): A single-jurisdiction CCE serving residents of the City of Lancaster in Southern California. LCE launched service in October 2015 and served 51,000 customers.

LEAN Energy (Local Energy Aggregation Network): A not-for-profit organization dedicated to expanding Community Choice Aggregation nationwide.

Load Forecast: A forecast of expected load over some future time horizon. Short-term load forecasts are used to determine what supply sources are needed. Longer-term load forecasts are used for budgeting and long-term resource planning.

Marginal Unit: An additional unit of power generation to what is currently being produced. At and electric power plant, the cost to produce a marginal unit is used to determine the cost of increasing power generation at that source.

Marin Clean Energy (MCE): The first CCA in California now serving residents and businesses in the Counties of Marin and Napa, and the Cities of Richmond, Benicia, El Cerrito, San Pablo, Walnut Creek, and Lafayette.

Market Redesign and Technology Upgrade (MRTU): CAISO's redesigned, nodal (as opposed to zonal) market that went live in April of 2009.

Net Energy Metering (NEM): The program and rates that pertain to electricity customers who also generate electricity, typically from rooftop solar panels.

Non-bypassable Charges: Charges applied to all customers receiving service from Investor-Owned Utilities in California, but which are separated into a separate charge for departing load customers, such as Community Choice Aggregation and Direct Access Customers. These charges include charges for the Public Purpose Programs (PPP), Nuclear Decommissioning (ND), California Department of Water Resources Bond (CDWR), Power Charge Indifference Adjustment (PCIA), Energy Cost Recovery Amount (ECRA), Competition Transition Charge (CTC), Cost Allocation Mechanism (CAM).

Non-Coincident Peak: Energy demand by a customer during periods that do not coincide with maximum total system load.

Non-Renewable Power: Electricity generated from non-renewable sources or that does not come with a Renewable Energy Credit (REC).

NP15: Refers to a wholesale electricity pricing hub - North of Path 15 - which roughly corresponds to PG&E's service territory. Forward and Day-Ahead power contracts for Northern California typically provide for delivery at NP15. It is not a single location, but an aggregate based on the locations of all the generators in the region.

On-Bill Repayment (OBR): Allows electric customers to pay for financed improvements such as energy efficiency measures through monthly payments on their electricity bills.

Operate on the Margin: Operation of a business or resource at the limit of where it is profitable.

Opt-Out: Community Choice Aggregation is, by law, an opt-out program. Customers within the borders of a CCA are automatically enrolled within the CCA unless they proactively opt-out of the program.

Peninsula Clean Energy (PCE): Community Choice Aggregation program serving residents and businesses of San Mateo County. PCE launched in October of 2016.

Power Cost Indifference Adjustment (PCIA): A charge applied to customers who leave IOU service to become Direct Access or CCA customers. The charge is meant to compensate the IOU for costs that it has previously incurred to serve those customers.

Power Purchase Agreement (PPA): The standard term for bilateral supply contracts in the electricity industry.

Renewable Energy Credits (RECs): The renewable attributes from RPS-qualified resources which must be registered and retired to comply with RPS standards.

Resource Adequacy (RA): The requirement that a Load-Serving Entity own or procure sufficient generating capacity to meet its peak load plus a contingency amount (15 percent in California) for each month.

Renewable Portfolio Standard (RPS): The state-based requirement to procure a certain percentage of load from RPS-certified renewable resources.

Scheduling Coordinator: An entity that is approved to interact directly with CAISO to schedule load and generation. All CAISO participants must be or have an SC.

Scheduling Agent: A person or service that forecasts and monitors short term system load requirements and meets these demands by scheduling power resource to meet that demand.

Silicon Valley Clean Energy (SVCE): CCA serving customers in twelve communities within Santa Clara County including the cities of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Morgan Hill, Mountain View, Saratoga, Sunnyvale, and the County of Santa Clara. As of the date of completion of this study, SVCE had not yet launched service.

Sonoma Clean Power (SCP): A CCA serving Sonoma County and Sonoma County cities. On December 29th, SCP received approval of their implementation plan from the California Public Utilities Commission to extend service into Mendocino County.

Spark Spread: The theoretical gross margin of a gas-fired power plant from selling a unit of electricity, having bought the fuel required to produce this unit of electricity. All other costs (capital, operation and maintenance, etc.) must be covered from the spark spread.

Supply Stack: Refers to the generators within a region, stacked up according to their marginal cost to supply energy. Renewables are on the bottom of the stack and peaking gas generators on the top. Used to provide insights into how the price of electricity is likely to change as the load changes.

Inland Choice Power (ICP): Refers collectively to the three councils of governments: Coachella Valley Association of Governments (CVAG), San Bernardino Associated Governments (SANBAG), and Western Riverside Council of Governments (WRCOG).

Weather Adjusted: Normalizing energy use data based on differences in the weather during the time of use. For instance, energy use is expected to be higher on extremely hot days when air

conditioning is in higher demand than on days with comfortable temperature. Weather adjustment normalizes for this variation.

Western Electric Coordinating Council (WECC): The organization responsible for coordinating planning and operation on the Western electric grid.

Wholesale Power: Large amounts of electricity that are bought and sold by utilities and other electric companies in bulk at specific trading hubs. Quantities are measured in MWs, and a standard wholesale contract is for 25 MW for a month during heavy-load or peak hours (7am to 10 pm, Mon-Sat), or light-load or off-peak hours (all the other hours).

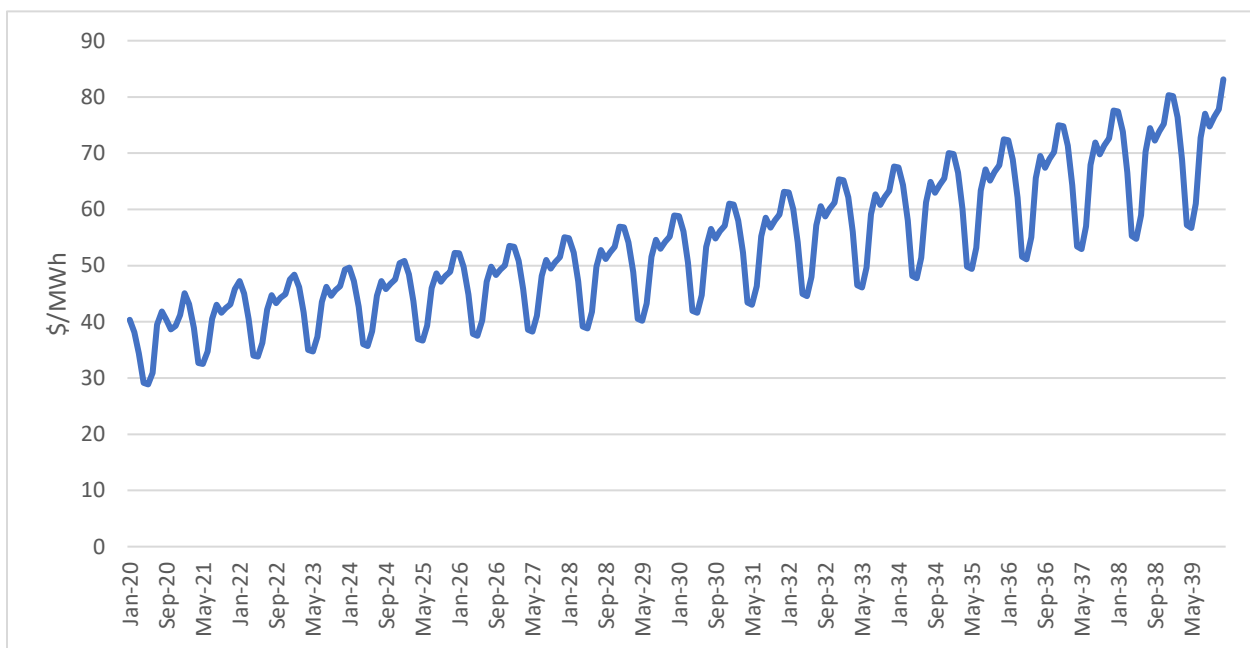
Western States Power Pool (WSPP) Agreement: Common, standardized enabling agreement to transact in the wholesale power markets.

Appendix F – Power Supply

Wholesale Market Prices

Market prices for NP15 were provided by EES Consulting's subscription to a market price forecasting service.⁴⁸ An adder of \$2/MWh was included in the forecast PPA prices to account for potential price differences between NP15 and the pricing nodes at which the CCA will transact. An additional adder of \$1/MWh was included for a bid/ask spread. Exhibit F-1 below shows forecast monthly northern California wholesale electric market prices. The levelized value of market prices over the 20-year study period is \$49.1/MWh (2018\$) assuming a 4 percent discount rate. Electric market prices peak in the winter and summer when there is large heating and cooling load.

Exhibit F-1
Forecast Northern California Wholesale Market Prices



Wholesale power prices have been used to calculate balancing market purchases and sales. When the CCA's loads are greater than its resource capabilities, the CCA's scheduling coordinator will schedule balancing purchases and the CCA will incur balancing market purchase costs. When the CCA's loads are less than its resource capabilities, the CCA's scheduling coordinator will transact balancing sales and the CCA will receive market sales revenue. Balancing market purchases and sales can be transacted on a monthly, daily and hourly pre-schedule basis.

⁴⁸ Market Intelligence. Prices current as of July 9, 2018.

Ancillary and Congestion Costs

The CCA will pay the CAISO for transmission congestion and ancillary services. Transmission congestion occurs when there is insufficient capacity to meet the demands of all transmission customers. Congestion refers to a shortage of transmission capacity to supply a waiting market, and is marked by systems running at full capacity and still being unable to serve the needs of all customers. The transmission system is not allowed to run above its rated capacities. Congestion is managed by the CAISO by charging congestion charges in the day-ahead market. Congestion charges can be managed through the use of Congestion Revenue Rights (CRR). CRRs are financial instruments made available through a CRR allocation, a CRR auction, and a secondary registration system. CRR holders manage variability in congestion costs. The CCA's congestion charges will depend on the transmission paths used to bring resources to load. As such, the location of generating resources used to serve Butte County CCA load will impact these congestion costs.

The Grid Management Charge (GMC) is the vehicle through which the CAISO recovers its administrative and capital costs from the entities that utilize the CAISO's services. Based on a survey of GMC costs currently paid by CAISO participants, the CCA's GMC costs are expected to be near \$0.5/MWh.

The CAISO performs annual studies to identify the minimum local resource capacity required in each local area to meet established reliability criteria. Load serving entities receive a proportional allocation of the minimum required local resource capacity by transmission access charge area, and submit resource adequacy plans to show that they have procured the necessary capacity. Depending on these results of the annual studies, there may be costs associated with local capacity requirements for the CCA.

Because generation is delivered as it is produced and, particularly with respect to renewables can be intermittent, deliveries need to be firmed using ancillary services to meet the CCA's load requirements. Ancillary services will need to be purchased from the CAISO. Regulation and operating reserves are described below.

- **Regulation Service:** Regulation service is necessary to provide for the continuous balancing of resources with load and for maintaining scheduled interconnection frequency at 60 cycles per second (60 Hertz). Regulation and frequency response service is accomplished by committing on-line generation whose output is raised or lowered (predominantly through the use of automatic generating control equipment) and by other non-generation resources capable of providing this service as necessary to follow the moment-by-moment changes in load.
- **Operating Reserves - Spinning Reserve Service:** Spinning reserve service is needed to serve load immediately in the event of a system contingency. Spinning reserve service may be provided by generating units that are on-line and loaded at less than maximum output and by non-generation resources capable of providing this service.

- **Operating Reserves – Non-Spinning Reserve Service:** Non-spinning reserve service is available within a short period of time to serve load in the event of a system contingency. Non-spinning reserve service may be provided by generating units that are on-line but not providing power, by quick-start generation or by interruptible load or other non-generation resources capable of providing this service.

Based on a survey of ancillary service costs currently paid by CAISO participants, the CCA's ancillary service costs are estimated to be near \$1.5/MWh. The Plan's base case will assume the CCA's ancillary service costs are \$1.5/MWh in 2020, escalating by 1.5 percent annually thereafter. Serving a greater percentage of load with renewables will likely result in increased grid congestion and higher ancillary service costs. For this reason, the ancillary service costs have been increased up to \$2.5/MWh in the 75% Renewables portfolio (plus 1.5 percent annual escalation). The scenarios included in this Plan as shown below in Exhibit F-2.

Exhibit F-2 Base Case Ancillary Service Costs in Resource Portfolios		
Portfolio	2020 Ancillary Service Costs	Annual Escalation Factor
1- Meet RPS Targets	1.5	1.5%
2- Serve 50% of Retail Load with Renewables	2.0	1.5%
3- Serve 75% of Retail Load with Renewables	2.5	1.5%

Scheduling Coordinator Services

A scheduling coordinator provides day-ahead and real-time power and transmission scheduling services. Scheduling coordinators bear the responsibility for accurate and timely load forecasting and resource scheduling including wholesale power purchases and sales required to maintain hourly load/resource balances. A scheduling coordinator needs to provide the marketing expertise and analytical tools required to optimally dispatch the CCA's surplus and deficit resources on a monthly, daily and hourly basis.

Inside each hour, the CAISO Energy Imbalance Market (EIM) takes over load/resource balancing duties. The EIM automatically balances loads and resources every fifteen minutes and dispatches least-cost resources every 5-minutes. The EIM allows balancing authorities to share reserves, and more reliably and efficiently integrate renewable resources across a larger geographic region.

Within a given hour, metered energy (i.e., actual usage) may differ from supplied power due to hourly variations in resource output or unexpected load deviations. Deviations between metered energy and supplied power are accounted for by the EIM. The imbalance market is used to resolve imbalances between supply and demand. The EIM deals only with energy, not ancillary services or reserves.

The EIM optimally dispatches participating resources to maintain load/resource balance in real-time. The EIM uses the CAISO's real-time market, which uses Security Constrained Economic Dispatch (SCED). SCED finds the lowest cost generation to serve the load taking into account operational constraints such as limits on generators or transmission facilities. The five-minute market automatically procures generation needed to meet future imbalances. The purpose of the five-minute market is to meet the very short-term load forecast. Dispatch instructions are effectuated through the Automated Dispatch System (ADS).

The CAISO is the market operator, and runs and settles EIM transactions. The CCA's scheduling coordinator will submit the CCA's load and resource information to the market operator. EIM processes are running continuously for every fifteen-minute and five-minute intervals, producing dispatch instructions and prices.

Participating resource scheduling coordinators submit energy bids to let the market operator know that they are available to participate in the real-time market to help resolve energy imbalances. Resource schedulers may also submit an energy bid to declare that resources will increase or decrease generation if a certain price is struck. An energy bid is comprised of a megawatt value and a price. For every increase in megawatt level, the settlement price also increases.

The CAISO calculates financial settlements based on the difference between schedules and actual meter data, and bid prices during each hour. Locational Marginal Prices (LMP) are used in settlement calculations. The LMP is the price of a unit of energy at a particular location at a given time. LMPs are influenced by nearby generation, load level, and transmission constraints and losses.



April 1, 2019

TO: Brian Ring
Erik Gustafson

FROM: Gary Saleba and Amber Nyquist

SUBJECT: Addendum to Butte County CCA Feasibility Study

CC: Zac Yanez

Introduction

In July 2018, EES Consulting, Inc. (EES) completed a feasibility study (Study) for the County of Butte (County), the Cities of Chico and Oroville, and the Town of Paradise (Town) to evaluate whether forming a Community Choice Aggregation (CCA) entity is prudent. The Study shows that a CCA in Butte County is economically feasible; however, since the Study was finalized there have been several updates in the utility operational and regulatory environment including a final decision on the methodology for determining the exit fee paid by CCA customers to PG&E. Additionally, PG&E has filed for retail rate changes, which have now been approved by the California Public Utility Commission (CPUC). Finally, wholesale power prices have changed. Within this Addendum, all of these variables have been updated to reflect the current market outlook. In summary, this Study update shows that with the above changes, a Butte County CCA remains a feasible undertaking.

Study Updates

The Study period was updated to 2021 through 2030. The other updates to the feasibility Study are described below.

Power Charge Indifference Adjustment (PCIA)

The PCIA is the exit fee paid to PG&E by departing customers when receiving power supply from other sources such as through direct access (DA) or a CCA. The CPUC finalized its decision on the basic methodology for calculating the PCIA in November, 2018. The new methodology increased investor owned utility (IOU) PCIA rates across all customer classes compared with the previous PCIA methodology. As such, the CCA feasibility Study was updated to reflect this higher PCIA rate which, all else equal reduces the opportunity for CCAs to offer rate discounts off PG&E generation

570 Kirkland Way, Suite 100
Kirkland, Washington 98033

Telephone: 425 889-2700

Facsimile: 425 889-2725

A registered professional engineering corporation with offices in
Kirkland, WA and Portland, OR

rates. For reference, the PG&E system PCIA went from \$0.01938 \$/kWh to \$0.03161 \$/kWh. This is a 63% increase. All else equal, this increase reduces the competitiveness of CCA in PG&E service territory.

PG&E Retail Rate Changes

PG&E filed an Energy Resource Recovery Account (ERRA) forecast in November, 2018 which would adjust both 2019 generation and PCIA rates. The CPUC accepted these changes in February 2019.¹ The current PG&E generation rate forecast is based on the latest approved ERRA revenue requirement. Overall the updated generation rates are higher than the previous forecast which makes it easier for a CCA to provide a rate discount.

Market Power Purchases

Market power prices for wholesale electricity, renewable energy, and greenhouse gas free energy have been updated according to current market conditions and outlook. Overall, market power prices have increased on average 4.5% compared with the prices assumed in the feasibility Study. Higher power prices make it more difficult for CCAs to offer rate discounts. While, traditional power source costs have increased, EES has adjusted the share of renewable energy purchased from long-term contracts (contracts greater than 10 years) pursuant to the Requirements of SB 350. The updated analysis assumes that the CCA would meet the requirements of SB350 which requires that 65% of the renewable energy requirement be purchased from long-term contracts. These long-term contracts have been typically priced lower than short-term contracts; therefore, the result is that the CCA power supply costs for renewable energy purchases is lower.

Study Results

Figure 1 shows that PG&E rates are higher compared with the three CCA power supply portfolios modeled: Renewable Portfolio Standard (RPS), 50% renewable; and 75% Renewable. Figure 1 illustrates that a CCA will likely provide consistent retail rate savings even when offering a higher percentage share of renewable energy compared with PG&E. The appendix to this Addendum shows the annual pro forma detail including collection of reserves and start-up capital requirements.

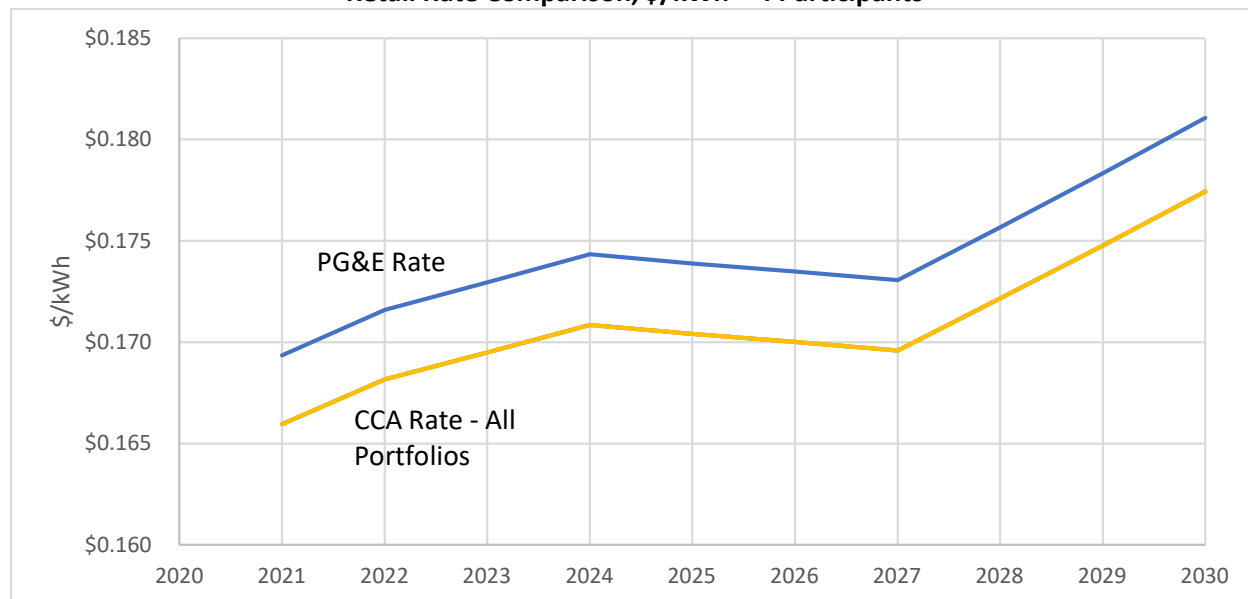
¹ Updated estimates provided in Advice Letter 5376-E-B filed February 26, 2019.

April 1, 2019

Page 3

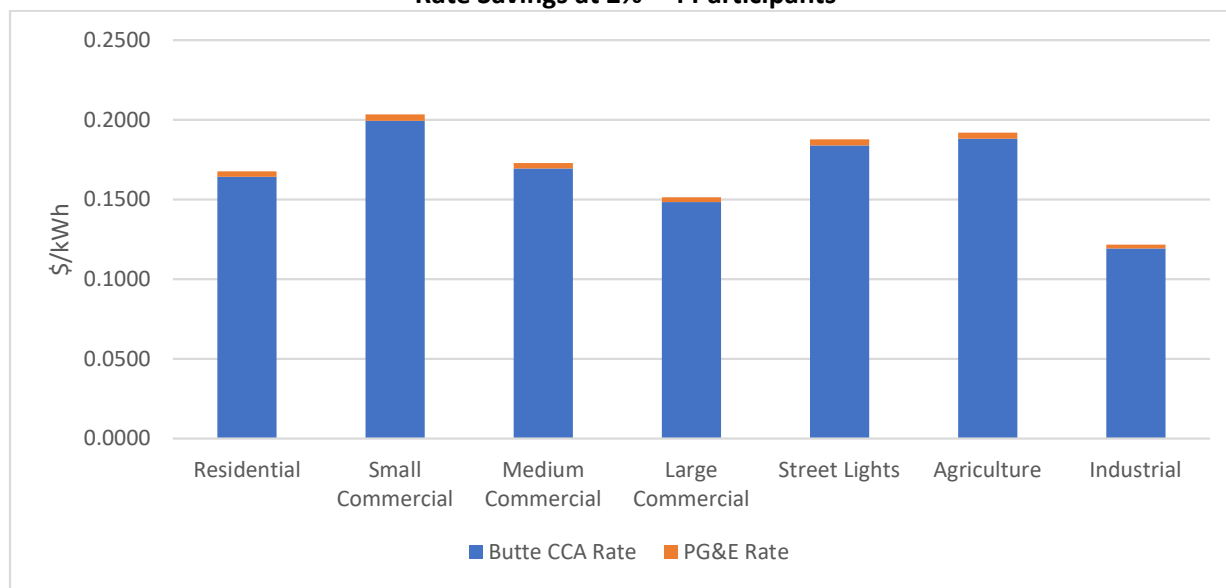
Item 4.

Figure 1
Retail Rate Comparison, \$/kWh – 4 Participants



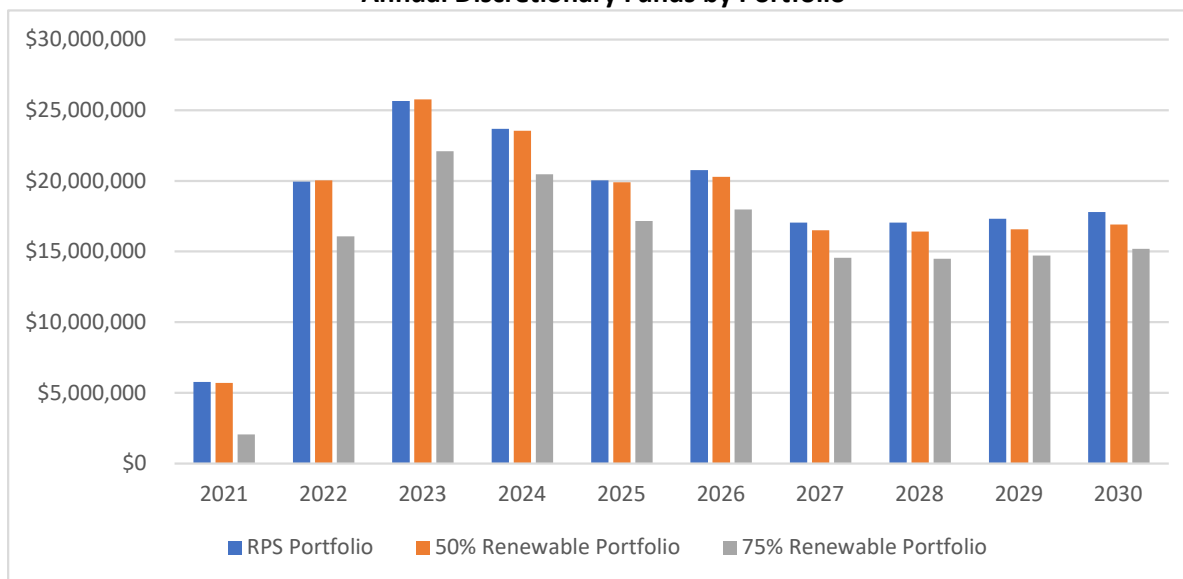
Note that Figure 1 shows CCA rates that offer a 2% rate savings for all portfolios. Because the CCA could offer the same rate discount regardless of power supply portfolio, the difference in the financial analysis between power supply portfolios is in the amount of funds available for discretionary programs. These are programs the CCA could choose to fund or alternatively the CCA could offer higher rate discounts. Note that energy efficiency funding from the CPUC is available to CCAs.

Figure 2
Rate Savings at 2% – 4 Participants



In addition to rate savings, the study found that the CCA generated discretionary income of roughly \$10M - \$15M annually. This discretionary income can be used to fund addition energy conservation measures, electric vehicle charging stations, more assistance to low income customer, battery storage, additional distributed energy resource (DER) projects, or additional CCA customer discounts. Figure 3 below shows the amount of discretionary funds availed vary by portfolio choice. Total discretionary funds over the 10-year study period for the RPS, 50% Renewable, and 75% renewable portfolios are \$185, \$182, and \$154 million respectively.

Figure 3
Annual Discretionary Funds by Portfolio



Summary

The feasibility Study found that a Butte County CCA could result in rate savings in excess of 2% over PG&E bundled rates (generation plus distribution). Total aggregate rate savings estimated for the four Participants of the Butte County CCA is \$8.7 million annually. The updated power costs, PG&E rate assumptions and PCIA levels do not change the findings of the original feasibility Study. The annual rate savings estimates are significant even if only the City of Chico and Unincorporated Butte County are included in the analysis (\$7 million). It is recommended that the Participants continually update the pro forma analyses as they work toward CCA implementation.

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Cash In											
Money From Financing	\$1,015,000	\$5,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
CCE Rate Revenues	\$0	\$75,532,973	\$99,836,380	\$102,768,219	\$104,262,969	\$102,591,976	\$104,578,316	\$103,142,855	\$105,399,022	\$108,129,685	\$111,062,511
Less Uncollectable Accounts	\$0	\$275,450	\$360,775	\$371,421	\$386,834	\$397,610	\$403,973	\$414,692	\$425,919	\$437,704	\$449,595
Total Cash Available	\$1,015,000	\$80,257,523	\$99,475,605	\$102,396,798	\$103,876,135	\$102,194,366	\$104,174,344	\$102,728,163	\$104,973,103	\$107,691,980	\$110,612,916
Cash Out											
Operating Expenses	\$252,845	\$55,238,954	\$72,473,067	\$74,647,583	\$77,776,857	\$80,193,069	\$82,393,673	\$84,874,475	\$87,171,657	\$89,581,850	\$92,014,437
Debt Service	\$213,264	\$1,092,204	\$1,378,722	\$1,378,722	\$1,378,722	\$1,165,457	\$286,517	\$0	\$0	\$0	\$0
CPUC and PG&E Bonds	\$547,285	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Reserve Allocation	\$1,605	\$18,160,752	\$5,666,010	\$714,909	\$1,028,802	\$794,371	\$723,487	\$815,606	\$755,238	\$792,392	\$799,755
Total Cash Used	\$1,015,000	\$74,491,910	\$79,517,799	\$76,741,214	\$80,184,381	\$82,152,897	\$83,403,677	\$85,690,081	\$87,926,895	\$90,374,242	\$92,814,192
Discretionary Funds	\$0	\$5,765,613	\$19,957,806	\$25,655,584	\$23,691,754	\$20,041,469	\$20,770,666	\$17,038,081	\$17,046,208	\$17,317,739	\$17,798,724
Total Accumulated Reserves	\$1,605	\$18,162,357	\$23,828,367	\$24,543,277	\$25,572,079	\$26,366,450	\$27,089,936	\$27,905,542	\$28,660,780	\$29,453,172	\$30,252,927
PG&E Total Bill	\$0	\$153,826,485	\$199,758,346	\$202,656,532	\$205,640,136	\$206,457,394	\$207,335,372	\$208,191,041	\$212,731,250	\$217,386,062	\$222,158,496
CCE Total Bill	\$0	\$150,749,648	\$195,763,379	\$198,603,604	\$201,527,334	\$202,328,453	\$203,188,665	\$204,027,220	\$208,476,625	\$213,038,341	\$217,715,326
Discount	0	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%

Ordinance No.

AN ORDINANCE OF THE BUTTE COUNTY BOARD OF SUPERVISORS
AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE
AGGREGATION PROGRAM AND ADDING ARTICLE XXIII ENTITLED, "COMMUNITY
CHOICE AGGREGATION" TO CHAPTER 2 ENTITLED, "ADMINISTRATION" OF THE
BUTTE COUNTY CODE

The Board of Supervisors of the County of Butte ordains as follows:

Section 1. Purpose.

The purpose of this Ordinance is to authorize the implementation of a community choice aggregation program through Butte Choice Energy, as required by California Public Utilities Code section 366.2(c)(12).

Section 2. Article XXIII is added to Chapter 2 of the Butte County Code as follows:

ARTICLE XXIII - COMMUNITY CHOICE AGGREGATION

2-183 - Authorization to Implement Community Choice Aggregation Program.

In order to provide businesses and residents within unincorporated Butte County with a choice of power providers, the County of Butte hereby elects to implement a community choice aggregation program within the jurisdictions of unincorporated Butte County by participating in the Community Choice Aggregation Program of Butte Choice Energy. To implement a community choice aggregation

1 program, all participating jurisdictions shall enter into a Joint
2 Powers Agreement.

3
4 Section 3. Severability.

5 If any section, sub-section, sentence, clause, or phrase of this
6 Ordinance is held by a court of competent jurisdiction to be invalid,
7 such decision shall not affect the remaining portions of this
8 Ordinance. The Board of Supervisors hereby declares that it would
9 have passed this Ordinance, and each section, sub-section, sentence,
10 clause, and phrase hereof, irrespective of the fact that one or more
11 sections, sub-sections, sentences, clauses, and phrased be declared
12 invalid.

13
14 Section 4. Effective Date and Publication.

15 The Clerk of the Board will publish the Ordinance codified in this
16 Chapter as required by law. The Ordinance codified in this Chapter
17 shall take effect thirty (30) days after final passage.

18
19 **PASSED AND ADOPTED** by the Board of Supervisors of the County of Butte,
20 State of California, on the 10th day of September, 2019, by the
21 following vote:

22
23 **AYES:**

24 **NOES:**

25 **ABSENT:**

1 NOT VOTING:

2
3 STEVE LAMBERT, Chair
Butte County Board of Supervisors

4 ATTEST:
5 SHARI MCCRACKEN, Chief Administrative Officer
and Clerk of the Board

6
7 By: _____
Deputy

BUTTE CHOICE ENERGY JOINT POWERS AGREEMENT

D
R
A
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T

This Joint Powers Agreement (the "Agreement"), effective as of October 22, 2019], 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 public agencies set forth in Exhibit A.

RECITALS

1. The Parties are public agencies sharing various powers under California laws, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and their inhabitants.

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 emissions.

2. The purposes for the Initial Participants (as such term is defined in Section 2.3 below) entering into this Agreement include local economic benefits such as jobs creation, community energy programs and local power development; securing energy supply and price stability, addressing climate change by reducing energy related greenhouse gas emissions; energy efficiencies. 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 solar, wind and hydro energy production.

3. The Parties desire to establish a separate public agency, known as the Butte Choice 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.

Authority may change its name at any time through adoption of a resolution of the Board.

4. The Initial Participants have 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.

5. By establishing the Authority , the Parties seek to:

(a) Provide electricity rates that are lower or no less than competitive with those offered by Pacific Gas and Electric ("PG&E") for similar products;

(b) Achieve quantifiable economic benefits to the region;

(c) Develop an electric supply portfolio with overall lower greenhouse gas intensity and lower greenhouse gas (GHG) emissions 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 encourages the use and development of cost-effective local renewable and distributed energy resources and that discourages the use

unbundled renewable energy credits;

Promote an energy portfolio that incorporates energy efficiency and demand response programs and pursues ambitious energy consumption reduction goals;

(e) 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;

(f) Recognize the value of current workers in existing jobs that support the energy infrastructure of Butte County;

(g) Promote personal and community ownership of renewable resources, spurring equitable economic development and increased resilience, especially in low income communities;

(h) Provide and manage its energy portfolio and products in a manner that provides cost savings to customers and promotes public health in areas impacted by energy production;

(i) Ensure that low-income households and communities are provided with affordable and flexible energy options, including the provision of energy discounted rates to eligible low-income households;

(m) Recognize and address the importance of healthy communities, including those disproportionately affected by air pollution and climate change;

(n) Use program revenues to provide energy-related programs and services; and

(o) Create an administering Authority that is financially sustainable, responsive to regional priorities, well-managed, and a leader in fair and equitable treatment of employees.

1. DEFINITIONS

1.1

- 1.2 "Act" means the Joint Exercise of Powers Act of the State of California (Chapter 5, Division 7, Title 1 of the Government Code commencing with Section 6500).
- 1.3 "Agreement" means this Joint Powers Agreement.
- 1.4 "Authority" means Butte Choice Energy Authority.
- 1.5 "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 Policies and Procedures, the annual budget, and plans and policies.
- 1.6 "Board" means the Board of Directors of the Authority.
- 1.7 "Community Choice Aggregation" or "CCA" means an electric service option available to cities, counties, and other public agencies pursuant to Public Utilities Code Section 366.2.
- 1.8 "CCA Program" means the Authority's program relating to CCA that is principally described in Section 2.4 (Purpose) of this Agreement.
- 1.9 "Days" shall mean calendar days unless otherwise specified by this Agreement.
- 1.10 "Director" means a member of the Board representing a Party, including up to two alternate Directors appointed in accordance with Sections 4.1 (Board of Directors) and 4.2 (Appointment and Removal of Directors) of this Agreement.
- 1.11 "Effective Date" means the date on which the Agreement shall become effective and the Authority shall exist as a separate public agency, as further described in Section 2.1 (Effective Date and Term) of this Agreement.
- 1.12 "Initial Costs" means all costs incurred by the Authority relating to the establishment and initial operation of the Authority, such as the hiring of the executive, technical, 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 the Initial Costs.
- 1.13 "Initial Participants" means, for purpose of this Agreement, the County of Butte, City of Chico, the City of Oroville (the County of Butte and the City of Chico are required for this agreement to be effective), and any other Parties joining in accordance with Section 2.3 (Initial Participants) of this Agreement.
- 1.14 "Operating Policies and Procedures" means the rules, regulations, policies, bylaws and procedures governing the operation of the Authority.
- 1.15 "Parties" means, collectively, the signatories to this Agreement that have satisfied the conditions in Section 2.3 (Initial Participants) or Section 2.5 (Addition

of Parties) of this Agreement, such that they are considered members of the Authority.

- 1.16 "Party" means, singularly, a signatory to this Agreement that has satisfied the conditions in Section 2.3 (Initial Participants) or Section 2.5 (Addition of Parties) of this Agreement, such that it is considered a member of the Authority.
- 1.17 "Public Agency" as defined in the Act includes, but is not limited to, the federal government or any federal department or agency, this state, another state or any state department or agency, a county, a county board of education, county superintendent of schools, city, public corporation, public district, regional transportation commission of this state or another state, a federally recognized Indian tribe, or any joint powers authority formed pursuant to the Act.

2. FORMATION OF BUTTE CHOICE ENERGY AUTHORITY

- 2.1 **Effective Date and Term.** This Agreement shall become effective and the Authority shall exist as a separate public agency on the date this Agreement is executed by the County of Butte and at least one other public agency 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 the Agreement is terminated in accordance with Section 8.3 (Mutual Termination) of this Agreement, subject to the rights of the Parties to withdraw from the Authority.
- 2.2 **Formation of the Authority.** Under the Act, the Parties hereby create a separate joint exercise of power agency which is named Butte Choice 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 body of a Party agrees in writing to assume any of the debts, liabilities or obligations of the Authority. The jurisdiction of the Authority shall be all territory within the geographic boundaries of the Parties; however the Authority may, as authorized under applicable law, undertake any action outside such geographic boundaries as is necessary and incidental to the accomplishment of its purpose.
- 2.3 **Initial Participants.** In addition to Parties executing this Agreement on or prior to the Effective Date, any incorporated municipality, county, or other eligible public agency may become a Party and recognized as an Initial Participant provided during the first 180 days after the Effective Date it executes this Agreement and delivers 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. All Initial Participants to this Agreement shall be required to commence electric service as soon as practicable, as determined by the Board.
- 2.4 **Purpose.** The purpose and objectives of this Agreement are to establish the Authority, to provide for its governance and administration, and to define the rights and obligations of the Parties. This Agreement authorizes the Authority to

provide a means by which the Parties can more effectively develop and implement sustainable energy initiatives that reduce energy demand, increase energy efficiency, and advance the use of clean, efficient, and renewable resources in the region for the benefit of the Parties and their constituents, including, but not limited to, establishing and operating a Community Choice Aggregation program.

- 2.5 **Addition of Parties.** After 180 days from the Effective Date any incorporated municipality, county, or other public agency may become a Party to this Agreement if all of the following conditions are met:

2.5.1 The adoption of a resolution of the Board admitting the public agency to the Authority;

2.5.2 The adoption by an affirmative vote of the Board satisfying the requirements described in Section 4.10 (Board Voting) of this Agreement, of a resolution authorizing membership into the Authority and establishing its pro rata share of organizational, planning and other pre-existing expenditures, and describing additional conditions, if any, associated with membership;

2.5.3 The adoption by the public agency of an ordinance required by Public Utilities Code Section 366.2(c)(12) and approval and execution of this Agreement and other necessary program agreements by the public agency;

2.5.4 Payment of the membership payment, if any; and

2.5.5 Satisfaction of any reasonable conditions established by the Board.

Pursuant to this Section 2.5 (Addition of Parties), all parties shall be required to commence electric service as soon as is practicable, as determined by the Board, as a condition to becoming a Party to this Agreement.

- 2.6 **Continuing Participation.** The Parties acknowledge that membership in the Authority may change by the addition, withdrawal and/or termination of Parties. The Parties agree to participate with such other Parties as may later be added, as described in Section 2.5 (Addition of Parties) of this Agreement. 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.

3. **POWERS**

- 3.1 **General Powers.** The Authority shall have the powers common to the Parties and which are necessary or convenient to the accomplishment of the purposes of this Agreement, subject to the restrictions set forth in Section 3.4 (Limitation on Powers) of this Agreement. As provided in the Act, the Authority shall be a public agency separate and apart from the Parties.

- 3.2 **Specific 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:

- 3.2.1 make and enter into contracts;
 - 3.2.2 employ agents and employees, including but not limited to an Executive Director;
 - 3.2.3 acquire, contract, manage, maintain, and operate any buildings, works or improvements;
 - 3.2.4 acquire property by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property;
 - 3.2.5 lease any property;
 - 3.2.6 sue and be sued in its own name;
 - 3.2.7 incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers authorized by law pursuant to Government Code Section 53850 et seq. and authority under the Act;
 - 3.2.8 issue revenue bonds and other forms of indebtedness;
 - 3.2.9 apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state or local public agency;
 - 3.2.10 form independent corporations or entities, if necessary to carry out energy supply and energy conservation programs at the lowest possible cost or to take advantage of legislative or regulatory changes;
 - 3.2.11 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;
 - 3.2.12 adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority ("Operating Policies and Procedures"); and
 - 3.2.13 make and enter into service agreements relating to the provision of services 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.
- 3.3 **Additional Powers to be Exercised.** In addition to those powers common to each of the Parties, the Authority shall have those powers that may be conferred upon it as a matter of law and by subsequently enacted legislation.

- 3.4 **Limitation on Powers.** As required by Section 6509 of the Act, the powers of the Authority are subject to the restrictions upon the manner of exercising power possessed by the County of Butte. In addition, the Authority shall not have the power to sponsor or become a party to any defined-benefit retirement plan for its employees. Any retirement benefits for Authority employees must be approved by unanimous consent of the Board.
- 3.5 **Obligations of the Authority.** The debts, liabilities, and obligations of the Authority shall not be the debts, liabilities, and obligations of the Parties unless the governing body of a Party agrees in writing to assume any of the debts, liabilities, and obligations of the Authority. In addition, pursuant to the Act, no Director shall be personally liable on the bonds or subject to any personal liability or accountability by reason of the issuance of bonds.
- 3.6 **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. The Board shall adopt a Conflict of Interest Code pursuant to Government Code Section 87300. The Board may adopt additional conflict of interest regulations in the Operating Policies and Procedures.

4. GOVERNANCE

- 4.1 **Board of Directors.** The governing body of the Authority shall be a Board of Directors ("Board") consisting of two directors for each Party appointed in accordance with Section 4.2 (Appointment and Removal of Directors) of this Agreement. The Board, in consultation with the Executive Director, may determine at any time to consider options to reduce the size of the Board if it determines that the efficient functioning and operation of the Board would be improved by having a smaller number of Directors. Any such change to the size of the Board would require amendment of this Joint Powers Agreement in accordance with Section 4.11 (Special Voting).
- 4.2 **Appointment and Removal of Directors.** The Directors shall be appointed and may be removed as follows:
- 4.2.1 The governing body of each Party shall appoint and designate in writing two regular Directors 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 shall appoint and designate in writing up to two alternate Directors who may vote on matters when the regular Directors are absent from a Board meeting. The persons appointed and designated as the regular Directors shall be an elected members of the governing body of the Party. The persons appointed and designated as the alternate Directors shall be elected members of the governing body of the Party. All Directors and alternates shall be subject to the Board's adopted Conflict of Interest Code.
- 4.2.2 ~~The Operating Policies and Procedures, to be developed and approved by~~
the Board in accordance with Section 3.2.12 (Specific Powers), shall

specify the reasons for and process associated with the removal of an individual Director for cause. Notwithstanding the foregoing, no Party shall be deprived of its right to seat a Director on the Board and any such Party for which its Director and/or alternate Directors have been removed may appoint a replacement.

- 4.3 **Terms 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 any time. If at any time a vacancy occurs on the Board, the affected Party shall appoint to fill the position of the previous Director within 90 days of the date that such position becomes vacant.
- 4.4 **Purpose of Board.** The general purpose of the Board is to:
- 4.4.1 Provide structure for administrative and fiscal oversight;
 - 4.4.2 Retain an Executive Director to oversee day-to-day operations;
 - 4.4.3 Retain legal counsel;
 - 4.4.4 Identify and pursue funding sources;
 - 4.4.5 Set policy;
 - 4.4.6 Maximize the utilization of available resources; and
 - 4.4.7 Oversee all Committee activities.
- 4.5 **Specific Responsibilities of the Board.** The specific responsibilities of the Board shall be as follows:
- 4.5.1 Identify Authority needs and requirements;
 - 4.5.2 Formulate and adopt the budget prior to the commencement of the fiscal year;
 - 4.5.3 Develop and implement a financing and/or funding plan for ongoing Authority operations;
 - 4.5.4 Retain necessary and sufficient staff and adopt personnel and compensation policies, rules and regulations subject to the limitations of Section 3.4;
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- 4.5.5 Adopt rules for procuring supplies, equipment, and services;
 - 4.5.6 Adopt rules for the disposal of surplus property;
 - 4.5.7 Establish standing and ad hoc committees as necessary to ensure that the interests and concerns of each Party are represented and to ensure operational, technical, and financial issues are thoroughly researched and analyzed;
 - 4.5.8 The setting of retail rates for power sold by the Authority and the setting of charges for any other category of retail service provided by the Authority;
 - 4.5.9 Termination of the CCA Program;
 - 4.5.10 Address any concerns of consumers and customers;
 - 4.5.11 Conduct and oversee Authority audits at intervals not to exceed three years;
 - 4.5.12 Arrange for an annual independent fiscal audit;
 - 4.5.13 Adopt such bylaws, rules and regulations as are necessary or desirable for the purposes hereof; provided that nothing in the bylaws, rules and regulations shall be inconsistent with this Agreement;
 - 4.5.14 Exercise the Specific Powers identified in Sections 3.2 and 4.6 except as the Board may elect to delegate to the Executive Director; and
 - 4.5.15 Discharge other duties as appropriate or required by statute.
- 4.6 **Startup Responsibilities.** The Authority shall have the duty to do the following within one year of the Effective Date of the Agreement:
- 4.6.1 To adopt an implementation plan prepared by EES Consulting, pursuant to Public Utilities Code Section 366.2(c)(3), for electrical load aggregation;
 - 4.6.2 To prepare a statement of intent, pursuant to Public Utilities Code Section 366.2(c)(4), for electrical load aggregation;
 - 4.6.3 To encourage other qualified public agencies to participate in the Authority;
 - 4.6.4 To obtain financing and/or funding as is necessary or desirable;
 - 4.6.5 To evaluate the need for, acquire, and maintain adequate levels of insurance coverage protection for potential liabilities.
- 4.7 **Meetings and Special Meetings of the Board.** The Board shall hold at least one regular meeting 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 meetings of the Board may be called in accordance with the provisions of Government Code Section 54956. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law.

- 4.8 **Brown Act Applicable.** All meetings of the Board shall be conducted in accordance with the provisions of the Ralph M. Brown Act (Government Code Section 54950, et seq.).
- 4.9 **Quorum; Approvals.** A majority of the Directors shall constitute a quorum, except that less than a quorum may adjourn from time to time in accordance with law. The affirmative votes of a majority of the Directors who are present at the subject meeting shall be required to take any action by the Board.

4.10 Board Voting.

4.10.1 **Percentage Vote.** Each Director shall have one vote. Action of the Board on all matters shall require an affirmative vote of a majority of all Directors who are present at the subject meeting, provided, however, that notwithstanding anything herein to the contrary, so long as Authority consists of three or less members, all actions of the Board shall require the affirmative vote of at least one director appointed by each Party. In some cases expressed in this Agreement, a supermajority vote is expressly required. When a supermajority vote is required under Section 4.11 (Special Voting), action of the Board shall require an affirmative vote of the specified supermajority of all Directors who are present at the subject meeting. All votes taken pursuant to this Section 4.10.1 shall be referred to as a percentage vote. Notwithstanding the foregoing, in the event of a tie in a percentage vote, the Board can break the tie and act upon an affirmative voting shares vote as described in section 4.10.2 (Voting Shares Vote).

4.10.2 **Voting Shares Vote.** In addition to and immediately after an affirmative percentage vote, two or more Directors, each appointed by a different Party, may request that a vote of the voting shares shall be held. In such event, the corresponding voting shares, as described in section 4.10.3, of all Directors voting in order to take an action shall exceed 50%, or such other higher voting shares percentage expressly required by this Agreement or the Operating Policies and Procedures of all Directors who are present at the subject meeting. All votes taken pursuant to this Section 4.10.2 shall be referred to as a voting shares vote. 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.

4.10.3 **Voting Shares Formula.** When a voting shares vote is requested by two or more Directors appointed by different Parties, voting shares of the Directors shall be 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.

4.11 Special Voting.

4.11.1 Except as provided below, matters that require Special Voting as described in this Section shall require 72 hours prior notice to any Brown Act meeting or special meeting. Two-thirds vote (or such greater vote as required by state law) of the appointed Directors shall be required to take any action on the following:

- (a) Change the designation of Treasurer or Auditor of the Authority;
- (b) Issue bonds or other forms of debt;
- (c) Exercise the power of eminent domain, subject to prior approval by the passage of an authorizing ordinance or other legally sufficient action by the affected Party; and
- (d) Amend this Agreement or adopt or amend the bylaws of the Authority. At least 30 days advance notice shall be provided for such actions. The Authority shall also provide prompt written notice to all Parties of the action taken and enclose the adopted or modified documents.

5. INTERNAL ORGANIZATION

5.1 **Chair and Vice Chair.** For each fiscal year, the Board shall elect a Chair and Vice Chair from among the Directors. The term of office of the Chair and Vice Chair shall continue for one year, but there shall be no limit on the number of terms held by either the Chair or Vice Chair. The Chair shall be the presiding officer of all Board meetings, and the Vice Chair shall serve in the absence of the Chair. The Chair shall sign all contracts on behalf of the Authority, and shall perform such other duties as may be imposed by the Board. In the absence of the Chair, the Vice-Chair shall sign contracts and perform all of the Chair's duties. The office of the Chair or Vice Chair shall be declared vacant and a new selection shall be made if: (a) the person serving dies, resigns, or the Party that the person represents removes the person as its representative on the Board, or (b) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement. Upon a vacancy, the position shall be filled at the next regular meeting of the Board held after such vacancy occurs or as soon as practicable thereafter. Succeeding officers shall perform the duties normal to said offices.

- 5.2 **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 office records of the Authority.
- 5.3 **Treasurer.** The Board shall appoint a qualified person to act as the Treasurer, who need not be a member of the Board. Unless otherwise exempted from such requirement, the Authority shall cause an independent audit to be made by a certified public accountant, or public accountant, in compliance with Section 6506 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 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.
- 5.4 **Auditor.** The Board shall appoint a qualified person to act as the Auditor, who shall not be a member of the Board. The Board may require the 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.
- 5.5 **Executive Director.** The Board shall appoint or contract with an Executive Director for the Authority, who shall be responsible for the day-to-day operation and management of the Authority and the CCA Program. The Executive Director may exercise all powers of the Authority, except those powers specifically reserved to the Board including but not limited to those set forth in Section 4.5 (Specific Responsibilities of the Board) of this Agreement or the Operating Policies and Procedures, or those powers which by law must be exercised by the Board. The Executive Director may enter into and execute any Energy Contract, in accordance with criteria and policies established by the Board. The Board, at its option, may choose to contract with a separate entity for the services of an Executive Director.
- 5.6 **Bonding of Persons Having Access to Property.** Pursuant to the Act, the Board shall designate the public officer or officers or person or persons who have charge of, handle, or have access to any property of the Authority exceeding a value as established by the Board, and shall require such public officer or officers or person or persons to file an official bond in an amount to be fixed by the Board.
- 5.7 **Other Employees/Agents.** The Board shall have the power by resolution to hire employees or appoint or retain such other agents, including officers, loan-out employees, or independent contractors, as may be necessary or desirable to carry-out the purpose of this Agreement.
- 5.8 **Privileges and Immunities from Liability.** All of the privileges and immunities from liability, exemption from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activities of officers, agents or employees of a public agency when performing their respective functions shall apply to the officers, agents or employees of the

Authority to the same degree and extent while engaged in the performance of any of the functions and other duties of such officers, agents or employees under this Agreement. None of the officers, agents or employees directly employed by the Board shall be deemed, by reason of their employment by the Authority to be employed by the Parties or by reason of their employment by the Authority, to be subject to any of the requirements of the Parties.

- 5.9 **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.

5.9.1 The Board may also establish the following Advisory Committees:

- (a) **Executive Committee.** The Board may establish an executive committee consisting of a smaller number of Directors. The Board may delegate to the Executive Committee's such authority as the Board might otherwise exercise, except that the Board may not delegate authority regarding certain essential functions, including but not limited to, approving the fiscal year budget or hiring or firing the Executive Director, and other functions as provided in the Operating Policies and Procedures. The Board may not delegate to the Executive Committee or any other committee its authority under Section 3.2.12 to adopt and amend the Operating Policies and Procedures.
- (b) **Finance Committee.** The Board may establish a finance committee consisting of a smaller number of Directors. The primary purpose of the Finance Committee is to review and recommend to the Board:
 - (1) A funding plan;
 - (2) A fiscal year budget;
 - (3) Financial policies and procedures to ensure equitable contributions by Parties;
 - (4) Such other responsibilities as provided in the Operating Policies and Procedures, including but not limited to policies, rules and regulations governing investment of surplus funds, and selection and designation of financial institutions for deposit of Authority funds.
- (c) **Community Advisory Committee.** The Board may establish a community advisory committee comprised of members of the public representing key stakeholder communities. The primary

purpose of the Community Advisory Committee shall be to provide a venue for ongoing citizen support and engagement in the operations of the Authority.

- (d) **Meetings of the Advisory Committees.** All meetings of the Advisory Committees shall be held in accordance with the Ralph M. Brown Act. For the purposes of convening meetings and conducting business, unless otherwise provided in the bylaws, a majority of the members of the Advisory Committee shall constitute a quorum for the transaction of business, except that less than a quorum or the secretary of each Advisory Committee may adjourn meetings from time-to-time. As soon as practicable, but no later than the time of posting, the Secretary of the Advisory Committee shall provide notice and the agenda to each Party, Director and Alternate Directors.
- (e) **Officers of Advisory Committees.** Unless otherwise determined by the Board, each Advisory Committee shall choose its officers, comprised of a Chairperson, a Vice-Chairperson and a Secretary.

6. **IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS**

6.1 **Preliminary Implementation of the CCA Program.**

- 6.1.1 **Enabling Ordinance.** In addition 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.
- 6.1.2 **Implementation Plan.** The Authority shall cause to be prepared and secure Board approval of 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.
- 6.1.3 **Termination of CCA Program.** Nothing contained in this Section 6 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.

- 6.2 **Authority Documents.** The Parties acknowledge and agree that the affairs 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 Policies and Procedures, 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 Section 8 (Withdrawal and Termination) of this Agreement.

7. **FINANCIAL PROVISIONS**

7.1 **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.

7.2 **Depository.**

7.2.1 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.

7.2.2 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 and duplication by the Parties at all reasonable times. The Board shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Authority, which shall be conducted in accordance with the requirements of Section 6506 of the Act.

7.2.3 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 Policies and Procedures. 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.

7.3 **Budget and Recovery Costs.**

7.3.1 **Budget.** The initial budget shall be approved by the Board. The Board may revise the budget from time to time 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 Policies and Procedures.

7.3.2 **Funding of Initial Costs.** The County of Butte has funded certain activities necessary to implement the CCA Program. Further, it is anticipated that additional costs will be incurred by other Parties. If the CCA Program becomes operational, these initial costs paid by the Parties shall be included in the customer charges for electric services as provided by Section 7.3.3 (to the extent recovery of such costs is permitted by law), and the Parties shall be reimbursed from the payment of such charges by customers of Authority. Prior to such reimbursement, the Parties shall provide such documentation of costs paid as the Board may request. Authority may establish a reasonable time period over which such costs are to be recovered. In the event that the CCA program does not become operational, the Parties shall not be entitled to any reimbursement of the initial costs that have been paid.

7.3.3 **Program Costs.** The Parties desire that, to the extent reasonably practicable, all costs incurred by the Authority that are directly or indirectly attributable to the provision of electric services under the CCA Program, including the establishment and maintenance of various reserve and performance funds, shall be recovered through charges to CCA customers receiving such electric services.

7.3.4

7.4 **Contributions.** Parties are not required under this Agreement to make any financial contributions. Consumers may subscribe as customers of the Authority pursuant to the Act and outside of this Agreement and through their on-bill selections.

7.4.1 A Party may, in the appropriate circumstance, and when agreed-to:

- (a) Make contributions from its treasury for the purposes set forth in this Agreement;
- (b) Make payments of public funds to defray the cost of the purposes of the Agreement and Authority;
- (c) Make advances of public funds for such purposes, such advances to be repaid as provided by written agreement; or
- (d) Use its personnel, equipment or property in lieu of other contributions or advances.
- (e) **No** Party shall be required to adopt any tax, assessment, fee or charge under any circumstances.

7.5 **Accounts and Reports.** The Treasurer shall establish and maintain such funds and accounts as may be required by good accounting practice or by any provision of any trust agreement entered into with respect to the proceeds of any bonds issued by the Authority. The books and records of the Authority in the hands of the Treasurer shall be open to inspection and duplication at all reasonable times by duly appointed representatives of the Parties. The Treasurer, within 180 days after the close of each fiscal year, shall give a complete written report of all financial activities for such fiscal year to the Parties.

7.6 **Funds.** The Treasurer shall receive, have custody of and/or disburse Authority funds in accordance with the laws applicable to public agencies and generally

accepted accounting practices, and shall make the disbursements required by this Agreement in order to carry out any of the purposes of this Agreement.

8. WITHDRAWAL AND TERMINATION

8.1 **Withdrawal**

8.1.1 **Withdrawal by Parties.** Any 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.

8.1.2 **Amendment.** Notwithstanding Section 8.1.1 (Withdrawal by Parties) of this Agreement, a Party may withdraw its membership in the Authority upon approval and execution of an amendment to this Agreement provided that the requirements of this Section 8.1.2 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.

The Right to Withdraw Prior to Program Launch. After receiving bids from power suppliers, Authority shall provide to the Parties the report from the electrical utility consultant retained by Authority that compares the total estimated electrical rates that Authority will be charging to customers as well as the estimated greenhouse gas emissions rate and the amount of estimated renewable energy used with that of the incumbent utility. If the report provides that Authority is unable to provide total electrical rates, as part of its baseline offering, to the customers that are equal to or lower than PG&E or to provide power in a manner that has a lower greenhouse gas emission rate or uses less renewable energy than the incumbent utility, a Party may immediately withdraw its membership in Authority without any financial obligation, as long as the Party provides written notice of its intent to withdraw to Authority Board no more than fifteen (15) days after receiving the report. Any withdrawing participant shall not be entitled to any return of funds provided to Authority, provided, however, that if, after program is launched there are unobligated and unused funds, the withdrawing participant shall be refunded its pro rata share of the unobligated and unused funds.

8.1.3 **Continuing Liability; Further Assurances.** A Party that withdraws its membership in the Authority may be subject to certain continuing liabilities, as described in Section 8.4 (Continuing Liability; Refund) of this Agreement, including, but not limited to, Power Purchase Agreements. 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. The Operating Policies and Procedures shall prescribe the rights if any of a withdrawn Party to continue to participate in those Board discussions and decisions affecting customers of the CCA Program that reside or do business within the jurisdiction of the Party.

- 8.2 **Involuntary Termination.** This Agreement may be terminated with respect to a Party for material non-compliance with provisions of this Agreement or the Authority Documents upon an affirmative vote of the Board in which the minimum percentage vote and percentage voting shares, as described in Section 4.10 (Board Voting) of this Agreement, shall be no less than 67% (excluding the vote and voting shares of the Party subject to possible termination). Prior to any vote to terminate this Agreement with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Party whose termination is proposed at least 30 days prior to the regular Board meeting at which such matter shall first be discussed as an agenda item. The written notice of proposed termination shall specify the particular provisions of this Agreement or the Authority Documents that the Party has allegedly violated.

The Party subject to possible termination shall have the opportunity at the next regular Board meeting to respond to any reasons and allegations that may be cited as a basis for termination prior to a vote regarding termination. A Party that has had its membership in the Authority terminated may be subject to certain continuing liabilities, as described in Section 8.4 (Continuing Liability; Refund) of this Agreement. In the event that the Authority decides to not implement the CCA Program, the minimum percentage vote of 67% shall be conducted in accordance with Section 4.10 (Board Voting) of this Agreement.

- 8.3 **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 8.1 (Withdrawal) of this Agreement.

- 8.4 **Continuing Liability; Refund.** Upon a withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or liabilities arising from the Party's membership in the Authority through the date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any claims, demands, damages, or liabilities arising after the date of the Party's withdrawal or involuntary termination. In addition, such Party also shall be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreements relating to such program provided such costs or obligations were incurred prior to the withdrawal of the Party. 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 liability for the costs described above. Any amount of the Party's funds held on deposit with the Authority above that which is required to pay any liabilities or obligations shall be returned to the Party.

- 8.5 **Disposition of Authority Assets.** Upon termination of this Agreement and dissolution of the Authority by all Parties, and after payment of all obligations of the Authority, the Board:

8.5.1 May sell or liquidate Authority property; and

8.5.2 Shall distribute assets to Parties in proportion to the contributions made by the existing Parties.

Any assets provided by a Party to the Authority shall remain the asset of that Party and shall not be subject to distribution under this section.

9. **MISCELLANEOUS PROVISIONS**

9.1 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 may engage in nonbinding mediation in the manner agreed upon by the Party or Parties and the Authority. In the event that nonbinding mediation is not initiated or does not result in the settlement of a dispute within 60 days after the demand for mediation is made, any Party and the Authority may pursue any remedies provided by law.

9.2 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.

9.3 Indemnification of Parties. The Authority shall acquire such insurance coverage as is necessary to protect the interests of the Authority, the Parties and the public. The Authority shall defend, indemnify and hold harmless the Parties and each of their respective governing board 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.

9.4 Notices. Any notice required or permitted to be made hereunder shall be in writing and shall be delivered in the manner prescribed herein at the principal place of business of each Party. The Parties may give notice by (1) personal delivery; (2) e-mail; (3) U.S. Mail, first class postage prepaid, or a faster delivery method; or (4) by any other reasonable method deemed appropriate by the Board.

Upon providing written notice to all Parties, any Party may change the designated address or e-mail for receiving notice.

All written notices or correspondence sent in the described manner will be deemed given to a party on whichever date occurs earliest: (1) the date of personal delivery; (2) the third business day following deposit in the U.S. mail, when sent by "first class" mail; or (3) the date of transmission, when sent by e-mail or facsimile.

9.5 Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of each Party.

- 9.6 **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 9.6 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 9.6 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 the 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.

- 9.7 **Severability.** If any one or more of the terms, provisions, promises, covenants, or conditions of this Agreement were adjudged invalid or void by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall not be affected thereby and shall remain in full force and effect to the maximum extent permitted by law.
- 9.8 **Governing Law.** This Agreement is made and to be performed in the State of California, and as such California substantive and procedural law shall apply.
- 9.9 **Headings.** The section headings herein are for convenience only and are not to be construed as modifying or governing the language of this Agreement.
- 9.10 **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.
- 9.11 **No Third Party Beneficiaries.** This Agreement and the obligations hereunder are not intended to benefit any party other than the Authority and its Parties, except as expressly provided otherwise herein. No entity that is not a signatory to this Agreement shall have any rights or causes of action against any party to this Agreement as a result of that party's performance or non-performance under this Agreement, except as expressly provided otherwise herein.
- 9.12 **Filing of Notice of Agreement.** Within 30 days after the Effective Date, or amendment thereto, the Secretary shall cause to be filed with the Secretary of State the notice of Agreement required by the Act.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each Party has caused this Agreement to be executed and attested by its proper officers thereunto duly authorized, its official seals to be hereto affixed, as follows:

COUNTY OF BUTTE

By: _____
Steve Lambert
Chairperson of the Board of Supervisors

APPROVED AS TO FORM:

BUTTE COUNTY COUNSEL

By: _____
BRUCE S. ALPERT
Butte County Counsel

Exhibit A - Members

The following entities are Parties of the Butte Choice Energy Authority:

1. County of Butte
2. City of Chico
3. City of Oroville



CITY OF OROVILLE STAFF REPORT

TO: MAYOR REYNOLDS AND COUNCIL MEMBERS

FROM: JOE DEAL, PUBLIC SAFETY DIRECTOR

**RE: ACCEPTANCE OF PROPOSAL FROM DESIGNS BUILD
INCORPORATED (DBI) FOR THE DISPATCH CENTER AND CAPITAL
IMPROVEMENT PROJECT**

DATE: OCTOBER 01, 2019

SUMMARY

The Council may consider accepting a proposal received from Designs Build Incorporated (DBI) for the demolition and remodel of the Dispatch Center and Emergency Operation Center (EOC) at the Public Safety Building.

DISCUSSION

The existing dispatch center was originally built in 1982, has been used 24 hours a day for the last 37 years and is in need of a remodel and updating. In doing so, the proposed plan will also update other areas within the public safety department, to include an updated training room that would be able to facilitate a City Emergency Operation Center (EOC) if the need were to arise.

A Request for Proposal was sent out by the City of Oroville and the attached proposal was the only response to the request. Staff is requesting to utilize \$378,509.00, of the \$525,000.00 (RDA Bond Proceeds) that was allocated for this project, for the demolition and remodel work to be done by DBI. Staff will bring back other costs associated to this project as they occur, to include the moving of current servers / wiring and purchasing of necessary equipment.

FISCAL IMPACT

Council approved appropriations in the amount of \$525,000 from fund 304 Capital Projects Fund (RDA Bond Proceeds)

RECOMMENDATION

Adopt Resolution No. 8817 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO SIGN AND ACCEPT THE PROPOSAL WITH DESIGN BUILD INCORPORATED (DBI), AUTHORIZING DBI TO COMPLETE THE PROPOSED DEMOLITION AND REMODEL AT THE PUBLIC SAFETY DEPARTMENT, IN THE AMOUNT OF \$378,509.00.

ATTACHMENTS

Resolution No. 8817

Report from the Community Development Dep't. regarding this project (04/12/2016 meeting)

**CITY OF OROVILLE
RESOLUTION NO. 8817**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA, AUTHORIZING AND DIRECTING THE MAYOR TO SIGN AND ACCEPT THE PROPOSAL WITH DESIGN BUILD INCORPORATED (DBI), AUTHORIZING DBI TO COMPLETE THE PROPOSED DEMOLITION AND REMODEL AT THE PUBLIC SAFETY DEPARTMENT, IN THE AMOUNT OF \$378,509.00.

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

1. The Mayor is hereby authorized and directed to sign and accept the proposal from Design Build Incorporated, authorizing the proposed demolition and remodel at the Public Safety Department, in the amount of \$378,509.00.
2. The City Clerk shall attest to the adoption of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Oroville at a regular meeting on October 01, 2019, by the following vote:

AYES: 13
NOES: 14
ABSTAIN: 15
ABSENT: 16

Chuck Reynolds, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Jackie Glover, Assistant City Clerk



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

Donald Rust
DIRECTOR

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2401 – FAX (530) 538-2426
www.cityoforoville.org

EXHIBIT O

TO: MAYOR AND COUNCIL MEMBERS

FROM: BILL LAGRONE
DIRECTOR OF PUBLIC SAFETY

RE: DISPATCH CENTER AND CAPITAL IMPROVEMENT PROJECT

DATE: APRIL 12, 2016 (CONTINUED FROM MARCH 29, 2016)

SUMMARY

The Council may consider prioritizing to remodel and update the existing dispatch center located within the Public Safety Center.

DISCUSSION

The existing dispatch center was originally built in 1982, has been used 24 hour a day for the last 34 years and is in need of a remodel and updating. The proposed cost to do so is presented below.

O – Dispatch Center Reconstruction	Cost
Demolition	\$35,000
Records Floor	\$50,000
Ceiling	\$15,000
Rough Plumbing	\$75,000
Wall Reconstruction	\$20,000
Electrical	\$30,000
Air Conditioning	\$20,000
Computer Wiring	\$20,000
Window	\$50,000
Finish Plumbing	\$10,000
Flooring	\$15,000
Cabinets	\$20,000
Work Stations	\$125,000
Lighting	\$15,000
Finish Work	\$25,000
Total Cost	\$525,000

FISCAL IMPACT**PROJECT FUNDING SOURCES**

O – Dispatch Center Reconstruction	Cost		
Cost Estimate	\$525,000		
\$3.4 million RDA Bond Proceeds		(\$525,000)	
Development Impact Fees			
Other Funding Sources			
City-Owned Properties			
Proceeds from RDA Properties Sold			
Total Cost	\$525,000	(\$525,000)	

RECOMMENDATION

Provide direction as necessary

ATTACHMENT(S)

None

Designs-Build Inc.

Project: T.I OROVILLE POLICE DEPARTMENT ,CA 95965

Site	SHEET A-0	UNIT	QTY		AMOUNT
Pavement striping		SFT	220		
Crosswalk striping		SF	266		
Concrete sidewalk 5 ft wide		SFT	405		
Detectable surface 5 ft wide		SFT	60		
ACCESSABLE SIGN PARKING SIGN		UNIT	2		
SUB TOTAL OF A-0					\$ 17,485.00

Demolition of first floor SHEET A -1

Concrete wall	SF	67		
Wood stud wall	LFT	45		
remove existing wall ,door and door frame	UNIT	6		
Wood doors	SF	665		
Flooring	LFT	40		
provide opening in eEx ceiling floor for cargo lift shaft				
Remove Ex Cabinetry & disposal.				
SUB TOTAL OF A-1				\$ 14,670.00

Demolition of second floor SHEET A-2

Concrete wall	SF	126		
Wood stud wall	LFT	45		
Wood doors	UNIT	5		
Wood doors	SFT	347		
Existing plumbing ,fixtures abd toiles partitions.	LS	1		
Re Locate Ex water Heater	Unit	1		
Flooring laminate	LFT	8		
Cabinets	LFT	40		
				\$ 12,450.00

Modification of first floor SHEET A 3

Wood stud wall 12 FT high	SFT	936		
Wood doors	UNIT	6		
Wood laminate flooring	SFT	990		
MDF base board	LFT	290		
Elec Cabinet	UNIT	7		
Texture and paint Finish	JOB	1		
New circuits,Electrification and Lights	JOB	1		
SUB TOTAL				\$ 67,524.00

\$ 112,129.00



Designs-Build Inc.

CARRY OVER PAGE 1

\$ 112,129.00

Modification of Seond floor SHEET A 4

Wood stud wall 11-6 FT HIGH	SFT	1890		
Wood doors commercial	UNIT	9		
Metal Door commercial	UNIT	1		
panic hardware ,commercial locks and hydr closure FOR EACH DOORS	UNIT	9		
Wood laminate flooring	SFT	1961		
Vinyl tile flooring	SFT	368		
Wood base board	LFT	255		
Vinyl base board	LFT	109		
Elec Cabinet	LFT	5		
Toilets Commercial Accessable	UNIT	3		
Urinals	UNIT	1		
Lavatories with california approved GPM with auto censor.	UNIT	4		
Accessable Grab Bars	UNIT	6		
Accessable shower units	UNIT	1		
Toilet partitions	LFT	28		
Towel roles dispenser	unit	4		
commercial Toilet paper Dsipenser	Unit	3		
commercial hand wash soap dispenser	unit	4		
stain less steel commercial reflector mirrors	LFT	4		
Kitchen cabinets	UNIT	24		
Kitchen sinks	UNIT	1		
Providing and instalation of Divider wall,manually foldable in the main office as per drawing A-4	LS	1		
Repair and fixing of Ceiling	LS	1		
Texture and paint Finish on new construction and repair work	JOB	1		
Electrification new circuits,switches and LED lights	JOB	1		
Plumbing and new plumbing lines				\$ 198,360.00
Elevator enclosure SHEET A-5	SFT	320		
Construction of Elevator cargo lift Shaft 21 ft high as per plans.	UNIT	1		
cargo lift foundation on floor	unit	1		
New electrical circuit to cargo lift	LS	1		\$ 35,650.00
Supply of cargo lift Galaxy 1000lbs				
instalation of cargo lift asscceries,safy doors etc	LS	1		\$ 32,370.00

TOTAL COST

\$ 378,509.00



PROPOSAL

Oroville Police Department Alterations

(Project Title)

TO THE CITY OF OROVILLE

1. The undersigned declares that he has carefully examined the location of the proposed work, that he has examined the contract plans and specifications, and read the accompanying General and Special Provisions, and hereby proposed to furnish all plans, materials and do all the work required to complete the said work in accordance with said contract plans, if any, and specifications, and General and Special Provisions, for the unit prices or lump sum set forth in the following attached schedules.
2. The undersigned further agrees that in case of default in executing the required contract, with necessary bonds within ten (10) days, not including Sunday, after having received notice that the contract is ready for signature, the proceeds of the Bidder's guaranty accompanying his or her bid shall become the property of the CITY OF OROVILLE.

3. In case of discrepancy between the unit price and the total set forth for a unit basis item, the unit price shall prevail, except as provided in (a) or (b), as follows:
 - (a) If the amount set forth as a unit price is unreadable or otherwise unclear, or is omitted, or is the same as the amount as the entry in the item total column, then the amount set forth in the item total column for the item shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price:
 - (b) Decimal Errors: If the product of the entered unit price and the estimated quantity is exactly off by a factor of ten, one hundred, etc., or one-tenth, or one-hundredth, etc. from the entered total, the discrepancy will be resolved by using the entered unit price or item total, whichever most closely approximates percentage wise the unit price or item total in the Department's Final Estimate of cost.
4. If both the unit price and the item total are unreadable or otherwise unclear, or are omitted, the bid may be deemed irregular. Likewise, if the item total for a lump sum item is unreadable or otherwise unclear, or is omitted, the bid may be deemed irregular unless the project being bid has only a single item and a clear, readable total bid is provided.

5. Symbols such as commas and dollar signs will be ignored and have no mathematical significance in establishing any unit price or item total or lump sums. Written unit prices, item totals and lump sums will be interpreted according to the number of digits and, if applicable, decimal placement. Cents symbols also have no significance in establishing any unit price or item total since all such figures are assumed to be expressed in dollars and/or decimal fractions of a dollar. Bids on lump sum items shall be item totals only; if any unit price for a lump sum item is included in a bid and it differs from the item total, the items total shall prevail.
6. The foregoing provisions for the resolution of specific irregularities cannot be so comprehensive as to cover every omission, inconsistency, error or other irregularity, which may occur in a bid. Any situation not specifically provided for will be determined in the discretion of the Department, and such discretion will be exercised in the manner deemed by the Department to best protect the public interest in the prompt and economical completion of the work. The decision of the Department respecting the amount of a bid, or the existence or treatment of an irregularity in a bid shall be final.

The Design Build,inc

City of Oroville Business License No.

Taxpayer Identification No. 455561110

Licensed in accordance with an act providing for the registration of contractors:

License No. CSLB # **978705**

Engineering A, GC B, C 46, Asbestos and Haz mat.

Bid cost attached on next page.



CITY OF OROVILLE STAFF REPORT

TO: MAYOR AND CITY COUNCIL MEMBERS

FROM: BILL LAGRONE, CITY ADMINISTRATOR

RE: LIMITING OR PROHIBITING THE SALE OF FLAVORED TOBACCO PRODUCTS IN OROVILLE

DATE: OCTOBER 1, 2019

SUMMARY

The Council may consider adopting an ordinance that either limits the sale of flavored tobacco products to smoke shops, or that prohibits the sale outright.

DISCUSSION

In 2017 the City Council considered but did not enact an ordinance restricting the sale of Menthol cigarettes and other flavored tobacco products. At its last meeting on September 17, 2019, the Council heard a presentation by the California Health Collaborative about the problems associated with menthol and other flavored tobacco products. They directed staff to bring an agenda item forward for consideration.

Now there are a plethora of well-documented health issues associated with the use of this type of product, there is a high percentage of use by youth, and policymakers everywhere are acting. For instance:

1. The California Department of Health and Governor Newsome are actively warning about the health issues of flavored tobacco use in the media, including that there have been 4 deaths and hundreds of illnesses in the State;
2. The Trump Administration announced on September 11 that it is moving to pull flavored e-cigarettes from the market until/unless they are approved by the FDA¹;
3. The makers and sellers of flavored cigarettes are under tremendous public pressure by public officials at all levels of government. On September 25 the CEO of Juul stepped down, the company announced it would stop saying their

¹ <https://www.npr.org/sections/health-shots/2019/09/11/759851853/fda-to-banish-flavored-e-cigarettes-to-combat-youth-vaping>

products are safer than traditional cigarettes, and would not oppose new regulations for their products.²

4. Local and state governments across the country have enacted laws prohibiting or restricting the sale of flavored tobacco, including 37 in California (e.g. San Francisco, Hermosa Beach, Cloverdale, and Sacramento). On 9/24/19, the LA County Board of Supervisors became the latest - voting unanimously to ban flavored tobacco products.

How many retailers in Oroville will be affected?

There are 40 tobacco retailers in Oroville that sell tobacco as part of their product lines, and 5 smoke shops whose main business is tobacco and tobacco products. Three smoke shops are on Oro Dam Blvd, one is on Lincoln Blvd, and the fifth is on Feather River Blvd @ Bird St. Prohibition would eliminate a significant line of business at the 5 smoke shops. The sale of unflavored tobacco and tobacco products would not be affected.

What is a flavored tobacco product?

The ordinances of Hermosa Beach and Sacramento both define a flavored tobacco product as any tobacco product that imparts a characterizing flavor regardless of the name of the product. For example: "Tropical Mist" may be characterized as smelling / tasting like coconut

"Characterizing flavor" means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product or any byproduct produced by the tobacco product, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcohol beverage, herb, or spice.

FISCAL IMPACT

Limiting sale to smoke shops would have an undetermined but limited effect on annual sales at 40 stores that sell tobacco products in Oroville.

A prohibition would have a significant effect on sales at the five smoke shops.

RECOMMENDATION

Direct staff to prepare an ordinance that distinguishes between tobacco products and flavored tobacco products, and that also:

1. Limits the sale of all flavored tobacco products to smoke shops
- or
2. Prohibits the sale of all flavored tobacco products within City limits.

and

² <https://www.nytimes.com/2019/09/25/health/juul-vaping.html>

Direct Staff to bring the matter before the Planning Commission on October 24, then to Council for a First reading on November 5 or 19, and a second reading as soon as possible after that.

ATTACHMENTS

1. California Medical Association White Paper on Flavored and Mentholated Tobacco Products;
2. California Matrix of Local Flavored Tobacco Product ordinances;
3. Model California Ordinance Restricting Sale
4. Hermosa Beach Ordinance
5. Sacramento City Ordinance

Flavored and Mentholated Tobacco Products: Enticing a New Generation of Users

CMA White Paper

May 2016



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This document was prepared by the California Medical Association and reviewed by its Council on Science and Public Health, a panel of physician experts, with input from subject matter researchers. It was approved by the CMA Board of Trustees on April 21, 2016.

CMA would like to thank the following organizations and individuals for their feedback and assistance in the writing of this paper: CMA Foundation; Network of Ethnic Physician Organizations; University of California, San Francisco; the LOOP; Valerie Yerger, ND; Bettina Frieese; African American Tobacco Control Leadership Council; Phillip Gardiner, DrPH; Rosalind A. Kirnon, MD; Janine Bera, MD; Donald Lyman, MD, MPH; Gordon Fung, MD; Robert Oldham, MD; Pamela Ling, MD, MPH; and Bonnie Halpern-Felsher, PhD, FSAHM.

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The California Medical Association's (CMA) mission is "to promote the science and art of medicine, the care and well-being of patients, the protection of the public health and the betterment of the medical profession" and the organization has a similar core objective of advancing public health.

CMA has long recognized that tobacco use is a costly habit that often leads to illness and poor health; in 1963, CMA was the first among state medical societies to create policy to inform people about the harmful effects of cigarette smoking. Effective policy solutions that prevent and reduce tobacco use and the negative health impacts of these products should be guided by the current literature and research that indicates these interventions are necessary – namely, that there is a preponderance of evidence that highlights emerging issues and which can be used to help guide tobacco control efforts.

This report presents the evidence and research on the impact of flavored and mentholated tobacco products on public health, particularly among priority populations. Priority populations are groups that have higher rates of tobacco use than the general population, experience greater secondhand smoke exposure at work and at home, are disproportionately targeted by the tobacco industry, and have higher rates of tobacco-related disease compared to the general population.¹

Specifically, this report addresses:

- The evidence linking flavored and mentholated tobacco products with initiation of and sustained tobacco use by youth and other priority populations, and the resulting negative health effects.

While great strides have been made in reducing tobacco use in California, tobacco use is still the leading preventable cause of premature death and disability in the state and nationally – more than 440,000 people die prematurely from tobacco-related disease.² Evidence indicates that lifelong smoking and other tobacco use begins early in life; in California, 63% of smokers start by the age of 18, and 97% start by age 26.³

Although the overall prevalence of youth smoking is declining in California, the introduction of novel tobacco products that are offered in a variety of flavors designed to appeal to children, such as bubblegum, grape, and chocolate, may present new public health threats to adolescents and young adults. Other evidence indicates that flavor additives, such as menthol, may impose additional threats, particularly among certain priority population groups that have relatively higher use rates.

The use of flavor and menthol additives in tobacco products has long been a popular industry strategy to mask the natural harshness and taste of tobacco, making initiation easier for younger and beginner smokers.⁴ Like all tobacco products, flavored and mentholated tobacco products have serious health risks and are not considered safe by the United States (U.S.) Food and Drug Administration (FDA).⁵

In 2009, the Family Smoking Prevention and Tobacco Control Act (FSPTCA) was signed into federal law, making it illegal to manufacture cigarettes that contained “characterizing flavors” other than that of tobacco. This included flavors like strawberry, grape, orange, clove, chocolate, and cinnamon. The FDA concluded that flavored cigarettes are a gateway for many children and young adults to become regular smokers.⁶

Notably, the federal ban on flavored cigarettes did not apply to mentholated cigarettes or other flavored tobacco products.⁷

There are several types of flavored tobacco products on the market, including cigars, smokeless tobacco, hookah, liquid nicotine solutions (used in electronic smoking devices), and menthol cigarettes. These products come in a variety of candy and fruit flavors such as chocolate, watermelon, grape, cherry, apple, and wintergreen. This section describes each type of tobacco product and consumption patterns, as well as health impacts associated with use of these products.

Cigars

- Cigars are sold in a variety of candy, fruit, and alcohol- like flavors.
- Cigars are the second most common form of tobacco used by youth, and flavored cigars represent more than half of the cigar market.
- Cigar smoke contains many of the same carcinogens as cigarette smoke, and may even be more toxic.
- Cigars pose significant morbidity and mortality risks to users.



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Cigar Products and Market Share

Cigars tend to vary in terms of size and the quantity of tobacco used in their products. There are three types of cigar sizes sold in the United States:

- **Large or Premium Cigars:** Contain between 5 and 20 grams of tobacco, which can equate to a pack of cigarettes.
- **Little Cigars:** Very similar to cigarettes and sold in the same size (e.g., contain 1 gram of tobacco), shape and packaging (20 little cigars in a package).
- **Cigarillos:** Contain about 3 grams of tobacco, usually larger than little cigars and cigarettes.⁸

In 2014, about 13 billion cigars were sold in the United States, including 12.4 billion large cigars and cigarillos and 0.6 billion little cigars.⁹ While cigarette consumption has declined from 2000 to 2014, total consumption of cigars increased by 122% over this same period,¹⁰ with flavored cigars representing more than half of the U.S. cigar market.¹¹ Following the Family Smoking Prevention and Tobacco Control Act of 2009, research indicates that cigar manufacturers and the tobacco industry manipulated flavored cigarettes to become flavored cigars in order to circumvent the ban on flavored cigarettes.^{12,13} Cigars are also commonly sold as single products, making them an affordable alternative to cigarettes which are taxed at higher rates.¹⁴

Swisher International Inc.'s Swisher Sweets and Little products represent the most popular cigar brands on the market. They come in a variety of flavors, including chocolate, strawberry, ice cream, peach, and grape. Black & Mild brand cigars, owned by Altria (parent company of Philip Morris USA), also maintain a significant market share and sell flavors like apple, wine, and cream.¹⁶

Cigar Use by Certain Groups

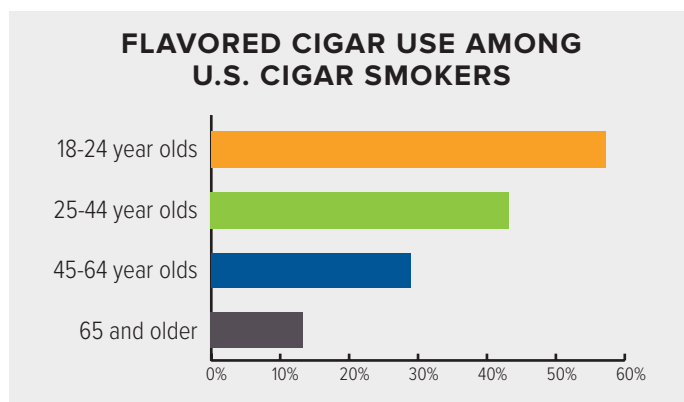
Cigars are the second most common form of tobacco used by high school students.¹⁷ That number increases among first-time tobacco users aged 12 and older, with nearly 2.7 million smoking cigars, in comparison to 2.3 million smoking cigarettes.¹⁸

A recent study found that more than 87% of adolescents who used cigarillos in the past 30 days used flavored cigarillos.¹⁹ When asked, 73.8% of current youth cigar smokers said they smoked cigars “because they come in flavors I like.”²⁰ More than two fifths of U.S. middle and high school smokers report using flavored little cigars or flavored cigarettes.²¹

In fact, a recent study found that flavored tobacco products, such as sweet-flavored cigars, are being engineered with the same flavor chemicals used in popular candy and drink products like LifeSavers and Jolly Ranchers, providing a “familiar, chemical-specific flavor cue” to the user.¹⁵

When asked, 73.8% of current youth cigar smokers said they smoked cigars “because they come in flavors I like.”

Research indicates that use of flavored cigars decreases with age: an analysis of data from the National Adult Tobacco Survey show that flavored cigar use among cigar smokers was 57.1% for 18-24 year olds, 43.2% for 25-44 year olds, 28.9% for 45-64 year olds, and 13.4% for those 65 and older.²² In addition, youth, young adults, females, African-Americans, cigarette smokers, and daily cigar smokers are significantly more likely to report smoking a usual cigar brand that is flavored, with preference for a usual brand that produces flavored cigars decreasing significantly with age.²³



Source: Findings from the 2009–2010 National Adult Tobacco Survey. Nicotine & Tobacco Research. 2013;15:608–14.

Health Impacts of Cigar Use

Item 6.

Cigar smoke contains many of the same carcinogens as cigarette smoke, and may even be more toxic.²⁴ As a result of the curing and fermentation process involved in producing cigar tobacco, higher concentrations of cancer-causing nitrosamines are present and released upon combustion. Additionally, cigars have more tar for every gram of tobacco smoked in comparison to cigarettes, and higher concentrations of toxins due to less-porous cigar wrappers.²⁵

Cigars pose significant morbidity and mortality risks to users. While lung cancer risk is less strongly associated with cigar smoking than with cigarette smoking, the health risks from cigar smoking increase depending upon level of exposure as measured by cigars smoked per day, inhalation level, and past smoking history.^{26,27}

Cigar smokers have higher rates of lung cancer, heart disease, and lung disease as compared to nonsmokers.²⁸ Regular cigar smoking is associated with increased risk for lung, larynx, oral cavity, and esophageal cancer, and has been linked to gum disease and tooth loss.^{29,30} Cigar smokers have also tested for higher levels of toxic and carcinogenic substances like cotinine, 4-(methylnitrosamino)-1-(3-pyridyl)-1-butanol (NNAL), which is a tobacco-specific nitrosamine (TSNA) that is a known lung carcinogen, and lead concentrations, as compared to nontobacco users.³¹

Daily cigar use and deep inhalation has also been linked to elevated risk of heart disease and chronic obstructive pulmonary disease.³² Cigar smokers also increase their mortality risk for an aortic aneurysm.³³ Regular cigar smoking was responsible for approximately 9,000 premature deaths and more than 140,000 years of potential life lost among U.S. adults aged 35 years or older in 2010.³⁴

There is a misperception that cigars are not harmful because cigar smoke is not inhaled, however, studies indicate that some cigar smokers do inhale, especially current and former cigarette smokers.³⁵ Inhalation of cigar smoke into the lungs and bloodstream causes smoke particles to deposit into the lungs, stomach, and digestive tract and increases the risk for cancer.³⁶⁻³⁸ Other research indicates that some youth and adult users of little cigars fully inhale the cigar smoke, similar to cigarettes, often indicating that inhaling was necessary to get a “buzz” from little cigars.^{39,40} Regardless of the level of inhalation, all cigar smokers expose their lips, tongue, and throat to smoke and cancer-causing chemicals.⁴¹

Smokeless Tobacco

- Smokeless tobacco is sold in various flavors and forms, with newer products that do not require spitting.
- Moist snuff is the most popular smokeless tobacco product and flavors account for the largest portion of moist snuff sales.
- Smokeless tobacco users tend to be younger and evidence shows the industry has manipulated the nicotine content to attract and retain users.
- Smokeless tobacco contains at least 28 cancer-causing chemicals.

Smokeless Tobacco Products and Market Share

Smokeless tobacco contains nicotine and is addictive.⁴² It is not burned, and it may be sucked, chewed, spit, or swallowed. It can come in a variety of flavors such as winter-green, citrus blend, cinnamon, berry, vanilla, and apple.^{43,44}

There are three main types of smokeless tobacco:

- **Chewing tobacco:** includes cured tobacco that comes in various forms such as loose leaf, plug, or twist tobacco, and is available in multiple flavors. Users place chewing tobacco between the cheek and gums.
- **Snuff:** Oral snuff is a finely cut, processed tobacco which the user places between the cheek and gums. Snuff may be moist, dry, or packaged in tea-like pouches or packets (i.e., snus). Dry snuff may be sniffed or inhaled into the nose, while snus is a newer form of snuff that does not require spitting.
- **Dissolvables:** Finely ground tobacco and flavorings, shaped into tablets, strips, or other forms, that the user ingests orally. These products do not require spitting.

In 2011, smokeless tobacco sales totaled approximately 124.6 million pounds in the U.S., increasing from the 122.6 million pounds sold in 2010. Moist snuff is the most popular smokeless tobacco product with over 80% of the market share, followed by loose leaf at over 17% of the market.⁴⁵ Three companies account for nearly 90% of U.S. sales of smokeless tobacco—U.S. Smokeless Tobacco Company (owned by Altria, popular premium brands like Skoal and Copenhagen), American Snuff, and Swedish Match.⁴⁶

Between 2005 and 2011, sales of flavored moist snuff across all companies increased by 72%; and in 2011, flavored products accounted for more than half (56.1%) of all moist

snuff sales.⁴⁷ Internal documents for the U.S. Smokeless Tobacco Company indicate that flavors were intentionally used to “graduate” new users from the “milder-tasting, more flavored” products to those with a “more full-bodied, less flavored ... more concentrated tobacco taste.”⁴⁸

Smokeless Tobacco Use by Certain Groups

The current demographics of smokeless tobacco users have changed as tobacco manufacturers introduce novel smokeless tobacco products with flavorings and new delivery methods appealing to a broader consumer base.⁴⁹ In 1970, men aged 65 and older were about six times more likely to use smokeless tobacco regularly as compared to men aged 18 to 24. By 1991, young men were 50% more likely than the oldest men to be regular users of smokeless tobacco.^{50,51}

In a 2013 survey of U.S. high school students, 14.7% of high-school boys and 8.8% of all high-school students reported current use of smokeless tobacco products.⁵² Furthermore, each year about 535,000 youth ages 12-17 report using smokeless tobacco for the first time.⁵³ More broadly, the number of persons aged 12 or older who used smokeless tobacco for the first time within the past year was 1.1 million in 2013.⁵⁴ Smokeless tobacco use among females has historically been low. Among males, smokeless use decreased between 1986 and 2000, but has been increasing since 2000.⁵⁵

There is evidence that users who begin with low-nicotine “starter” products are more likely to subsequently “graduate” to products with higher nicotine content,⁵⁶ and that use of starter products reinforces use of other tobacco products, including cigarettes.^{57,58} Industry marketing practices and introduction of novel products have encouraged cigarette smokers to use smokeless tobacco as an alternative in locations where smoking is not permitted.^{59,60} Cigarette smokers may also consider smokeless tobacco to be a cessation or harm reduction strategy to reduce use of combustible tobacco products.⁶¹ Studies have found that smokers who no longer use combustible tobacco may switch to smokeless tobacco as a substitute to smoking or may engage in dual use by using both products concurrently.⁶²⁻⁶⁴ Smokeless tobacco is not a safe alternative to combustible tobacco, and there is no conclusive evidence that shows that switching to smokeless tobacco is an effective long-term smoking cessation strategy.^{65,66}

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Health Impacts of Smokeless Tobacco Use

Smokeless tobacco contains at least 28 cancer-causing chemicals⁶⁷ and has been shown to cause gum disease, tooth decay and cancers of the oral cavity, esophagus and pancreas.⁶⁸⁻⁷⁰ The health risks associated with smokeless tobacco use can vary depending upon the product characteristics, manner and frequency of use, as well as interactions with dual use of other tobacco products.⁷¹

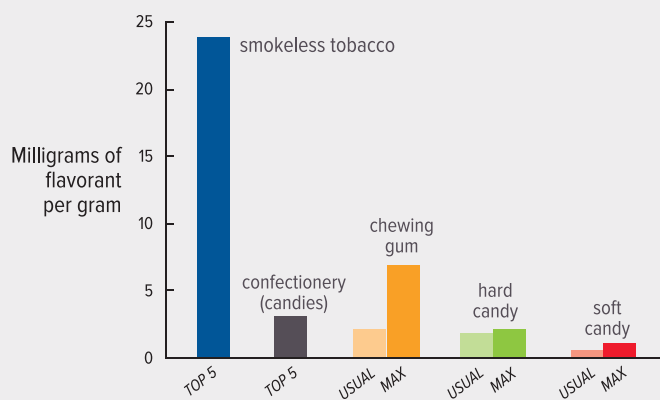
The use of flavorings in some oral smokeless tobacco products presents another level of exposure as the flavorings are ingested along with the tobacco.⁷² A measurement of the mint and wintergreen contents found in popular moist snuff products indicated that these products contain far more of these flavorings (i.e., methyl salicylate) than found in hard candies – a typical smokeless tobacco user could ingest up to 12 times the acceptable daily intake level of methyl salicylate as established by a scientific expert committee on food additives.⁷³ Smokeless tobacco products may also contain additives that have been prohibited for use in food; coumarin, for example, is an additive that has been banned in foods due to its liver toxicity, that is also found in Camel Mellow Orbs, a dissolvable tobacco product.⁷⁴

Smokeless tobacco products differ considerably in their concentrations of nicotine, volatile and nonvolatile nitro-samines including TSNAs, the most abundant strong carcinogens in smokeless tobacco products, as well as toxic metals and other compounds.⁷⁵⁻⁷⁷ All smokeless tobacco products contain nicotine and almost all contain TSNAs.⁷⁸ A comparison of studies found that biomarkers indicating exposure to carcinogens in the urine of users of moist snuff varied by brand used and, for some brands, were higher than levels seen in Marlboro cigarette smokers.⁷⁹

Smokeless tobacco use is strongly associated with the prevalence of oral lesions on the cheeks, gums, and/or tongue, such as leukoplakia.^{80,81} Lesions typically occur at the site in the mouth of smokeless tobacco application and indicate a high risk of cancers arising from leukoplakia and

METHYL SALICYLATE IN “WINTERGREEN” TYPES OF SMOKELESS TOBACCO, CANDY, AND GUM

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Source: Chen C, et al. (2010)

oral submucous fibrosis.^{82,83} Research suggests that more than half of daily smokeless tobacco users had lesions or sores in the mouth,⁸⁴ and lesions are more severe in people who begin use at an earlier age, use for more hours per day, use greater dosages, or use on more days per month.⁸⁵ Other oral conditions associated with smokeless tobacco use include gingival recession, which can be observed within one year of smokeless tobacco use, dental decay, and caries.⁸⁶ A study found chewing tobacco users were four times more likely than non-users to have decayed dental root surfaces.⁸⁷

Other health impacts from smokeless tobacco use include an association with increased risk of fatal ischemic heart disease and stroke.⁸⁸⁻⁹⁰ Use during pregnancy heightens risk for early delivery and stillbirth, and can affect how a baby's brain develops before birth.^{91,92} Research shows that users who engage in dual use of smokeless tobacco and cigarettes may have greater levels of toxicants and may prolong the duration of smoking than those who use only one tobacco product, potentially posing greater health risks.^{93,94}

Hookah Tobacco

- Hookah has a wide range of flavors and flavor mixes available for purchase.
- Hookah smoking is a social activity and its popularity has increased among youth and college students.
- Flavored hookah tobacco is the preferred tobacco for use in water pipes.
- Hookah is not safer than cigarettes and has many of the same health risks as cigarette smoke.

Hookah Products and Market Share

Hookah—also called shisha, narghile, and goza—refers to water pipes that are used to smoke tobacco by indirectly heating it with burning embers or charcoal.⁹⁵ The tobacco comes in a range of flavors, such as apple, mint, cherry, chocolate, cardamom, watermelon, and cappuccino,⁹⁶ and some manufacturers even mix flavors to produce combinations such as strawberry-peach or raspberry-orange.⁹⁷ Several Middle Eastern companies manufacture and import the tobacco, including Al Fakher, Al Waha, Nakhla, Romman, and Fumari, and there are also U.S. companies that manufacture and distribute their own brands of tobacco for water pipe smoking.⁹⁸

Hookah Use by Certain Groups

Hookah smoking is often a social activity and two or more people may share the same waterpipe.⁹⁹ Hookah use began centuries ago in ancient Persia and India,¹⁰⁰ but hookah cafes have gained popularity nationwide in the U.S.¹⁰¹ and use by American youth^{102,103} and college students is increasing.¹⁰⁴⁻¹⁰⁸ One study found that hookah use in California was much higher among young adults (24.5% among men, 10% among women) than it was among all adults (11.2% among men, 2.8% among women) in the U.S.¹⁰⁹ A 2014 study found that teens that use hookah are two-to-three times more likely to start smoking cigarettes or to become current smokers than teens who have not tried hookah.¹¹⁰ In addition, an analysis of the 2012–2013 National Adult Tobacco Survey found that among young adults who had never established cigarette smoking, two of five hookah smokers reported being susceptible to smoking cigarettes.¹¹¹

The World Health Organization (WHO) found that the introduction of sweetened flavored water pipe tobacco *maassel*, is one of the contributing factors that has caused hookah's explosive growth.¹¹² Prior to the introduction of *maassel*, most water pipe smokers used some type of raw tobacco that produced a strong, harsh smoke, unlike the smoother, aromatic smoke produced from *maassel*.¹¹³ Research indicates that *maassel* is the preferred tobacco for use in water pipes, especially among young smokers.¹¹⁴ One study found that 88.7% of 12-17 year olds who had ever smoked hookah used flavored hookah the first time they tried the product, and 89% of current hookah smokers used a flavored product in the last month.¹¹⁵ Similarly, the 2014 National Youth Tobacco Survey found that 60.6% of middle and high school hookah smokers had used flavored hookah in the past month.¹¹⁶

Health Impacts of Hookah Use

Many young adults falsely believe that hookah smoking is safer than cigarette smoking,¹¹⁷ however, hookah poses many of the same health risks as cigarette smoking. One hookah session delivers approximately 125 times the smoke, 25 times the tar, 2.5 times the nicotine, and 10 times the carbon monoxide as a single cigarette.¹¹⁸ During an hour-long hookah smoking session the average user will take 200 puffs, while smoking an average cigarette involves only about 20 puffs.^{119,120} In fact, smoking hookah for 45 to 60 minutes can be equivalent to smoking 100 or more cigarettes.¹²¹

The charcoal that is used to heat the tobacco in a hookah can increase health risks for smokers, as the smoke contains toxicants emitted from both the charcoal and the tobacco product, including flavorings.¹²² Hookah smoke has high levels of carbon monoxide, metals, and cancer-causing chemicals.¹²³ As a result, hookah use can cause negative health effects on the respiratory system, cardiovascular system, oral cavity and teeth, and long-term use has been linked to high incidences of chronic obstructive pulmonary disease and periodontal disease.^{124,125} Hookah smokers may also be at risk for some of the same diseases as cigarette smokers, including oral cancer, lung cancer, stomach cancer, and esophageal cancer.^{126,127}

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Liquid Nicotine Solution

- Liquid nicotine solution is a broad term that encompasses “e-juice” or “e-liquid” which is often used in electronic nicotine delivery devices, or electronic cigarettes.
- Liquid nicotine solution is available in a plethora of candy and fruit-flavors, many of which use popular brand names and logos that appeal to youth.
- Youth uptake of electronic cigarettes has vastly increased over the last several years.
- While there is insufficient research on the long-term health effects of liquid nicotine solution, evidence shows that toxic additives are often included in the aerosol spray.



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Liquid Nicotine Products and Market Share

Liquid nicotine solution, also called “e-juice” or “e-liquid,” is used in electronic smoking devices such as e-cigarettes and vaporizers. The term “electronic cigarette” or “e-cigarette” is a common term that can refer to a wide variety of products that use liquid nicotine solution, which is a derivative of tobacco. Unlike combustible tobacco products, e-cigarettes are battery-operated devices that heat liquid nicotine solution to form an inhalable aerosol.¹²⁸ Some e-cigarettes are reusable and users can replace or refill the liquid nicotine solution, while others are disposable and cannot be refilled.¹²⁹ Other more advanced devices, called modulators or “mods,” can be assembled with separate component parts and accessories, which permits greater variation in the battery power, style, and size.¹³⁰

Sales of electronic cigarettes and supplies have experienced triple-digit growth over the past five years, climbing to over \$3.5 billion with market analyses projecting use of e-cigarettes and vaporizers to overtake combustible cigarettes in ten years.¹³¹ Almost 50% of the

electronic cigarette market is owned by the largest companies, and that market share is expected to reach 80% in 2021.¹³² However, sales have decelerated over the past year due to customer dissatisfaction, safety concerns, and increased state regulation.¹³³

As a result of this growth, there are now over 460 brands of e-cigarettes and more than 7,700 unique e-cigarette flavors available for purchase online.¹³⁴ This includes a wide range of candy and fruit-flavors that are not permitted in cigarettes, many of which use well-known brand name candy and cereal products, such as Wrigley’s, Atomic Fireball, Tutti Frutti, and Cap N’ Crunch, which are considered to be appealing to children.¹³⁵

Liquid Nicotine Use by Certain Groups

Data trends depict increasing use of e-cigarettes by youth. From 2013 to 2014, a Centers for Disease Control and Prevention (CDC) survey found that youth use of e-cigarettes had tripled and now exceeds youth use of traditional cigarettes. Current e-cigarette use among high school students increased from 4.5% to 13.4%, amounting to 2 million high school students and 450,000 middle school students who currently use e-cigarettes.¹³⁶

A 2015 Monitoring the Future study found that 40% of youth who used e-cigarettes did so because “they tasted good” compared to only 10% who use them to quit smoking traditional cigarettes.¹³⁷

Other studies found similar increases in youth uptake of e-cigarettes,¹³⁸⁻¹⁴⁰ and preliminary California specific data indicates e-cigarette youth use to be at much higher rates than traditional cigarettes.¹⁴¹

A gateway effect has been observed for youth users: a recent longitudinal study of e-cigarette use found that adolescents who use e-cigarettes are more likely to start smoking cigarettes. Among nonsmoking students who used e-cigarettes, 20% indicated they had smoked their first cigarette a year later. Among nonsmokers who had not used e-cigarettes, only 6% had used cigarettes a year later.¹⁴² Similar findings were published in *The Journal of the American Medical Association (JAMA) Pediatrics* that indicates young people who smoke e-cigarettes are more likely to start smoking traditional cigarettes within a year

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as compared to their peers who do not use e-cigarettes.¹⁴³ Using data from the 2012 National Youth Tobacco Survey, one study confirmed that e-cigarette users who had never smoked cigarettes and who had experimented with smoking had elevated intention to smoke cigarettes compared with their counterparts who had never used e-cigarettes.¹⁴⁴ Additionally, a new analysis of a nationally representative sample of adolescents supports these findings: use of electronic nicotine delivery systems (such as e-cigarettes) was associated with initiation of cigarette smoking in the last year.¹⁴⁵

Health Impacts of Liquid Nicotine Use

There is insufficient research regarding the long-term health effects of using e-cigarettes.¹⁴⁶ As e-cigarettes have largely been unregulated, they have been heavily marketed as a safer alternative to conventional cigarettes. However, the liquid nicotine solution used in e-cigarettes frequently contains nicotine, as well as propylene glycol, glycerin, flavorings, and other toxic additives.¹⁴⁷ Research has found chemicals and toxins contained in the aerosol; such as nicotine, formaldehyde, lead, nickel, and acetaldehyde, all of which are found on California's Proposition 65 list of chemicals known to cause cancer, birth defects, or other reproductive harm.¹⁴⁸ It is posited that nicotine exposure during periods of developmental vulnerability has multiple adverse health consequences, including impaired fetal brain and lung development, and altered development of cerebral cortex and hippocampus in adolescents.¹⁴⁹

Furthermore, certain chemicals used to flavor liquid nicotine, like diacetyl, 2,3-pentanedione, and acetoin, are present in many e-liquids at levels which are unsafe for inhalation.¹⁵⁰ While diacetyl has been approved for ingestion in human food, it has not been similarly evaluated and approved for use in tobacco products, which result in exposures other than ingestion (e.g., inhalation).¹⁵¹ A recent study found diacetyl in 75% of flavored e-cigarette liquids and refill liquids that were tested, and at least one of the three

flavoring chemicals (i.e., diacetyl, 2,3-pentanedione, and acetoin) was detected in 92% of the tested e-cigarette and liquids.¹⁵² Diacetyl, when inhaled, is associated with the development of the severe lung condition called bronchiolitis obliterans, also known as "popcorn lung," which causes an irreversible loss of pulmonary function and damage to cell lining and airways.¹⁵³ Still another study has found that users of flavored e-cigarettes are likely inhaling a chemical called benzaldehyde, a widely used flavoring agent found in foods, as well as medicines like cough syrup, that when inhaled can irritate the airways.¹⁵⁴

In addition, the liquid nicotine solution contains varying concentrations of nicotine, ranging from no nicotine to 100 mg per milliliter (a milliliter is approximately a fifth of a teaspoon). The lethal dose of nicotine is estimated to be 30-60 mg in an adult and 10 mg in a child. The toxicity of a 60 mg dose of liquid nicotine is similar to or even higher than that of cyanide.¹⁵⁵ Accidental exposure to nicotine, particularly by children aged five and younger, has led to significant increases in calls to poison control centers in California and nationally.¹⁵⁶

Although there are claims that e-cigarettes are an effective smoking cessation tool, there is not enough evidence to indicate that e-cigarettes will help smokers quit or reduce the number of cigarettes smoked.^{157,158} The U.S. Preventive Services Task Force, which makes recommendations about the effectiveness of specific preventive care services after a thorough assessment of the science, recently concluded that "the current evidence is insufficient to recommend electronic nicotine delivery systems for tobacco cessation..."¹⁵⁹ In fact, recent evidence points to potential signs of dual use instead of cessation: instead of using e-cigarettes as a cessation tool, some users are using e-cigarettes in indoor environments where use of traditional cigarettes may be prohibited, but continuing to smoke traditional cigarettes outdoors.¹⁶⁰⁻¹⁶³

Menthol Cigarettes

- Menthol is an anesthetic additive used in cigarettes that imparts a cooling effect and minty taste, and reduces the harsh taste of cigarette smoke.
- Menthol cigarettes represent about one third of the U.S. cigarette market.
- Menthol users tend to be younger, female and members of ethnic minorities, and the FDA has concluded that menthol cigarettes are “starter” products.
- Menthol cigarettes lead to greater addiction and can inhibit cessation.

Menthol Cigarette Products and Market Share

Menthol is an anesthetic additive that can be natural or synthetically produced, and is commonly used as a minty flavoring in cigarettes. At low doses, menthol has a cooling, sensory effect that reduces the perceived harshness of tobacco and increases ease of smoking.¹⁶⁴ At high doses, menthol can cause irritation and pain via effects on certain receptors located in the nose, mouth and airways. Menthol is present in most cigarettes in the U.S., both as a characterizing flavor (higher levels) and for other taste reasons (lower levels).^{165,166} Menthol is also an active ingredient in many medicinal products, such as cough drops, and it is regulated as a drug by the FDA. The use of menthol in tobacco products is not regulated by the FDA, and it may be found in cigarettes, cigars, smokeless tobacco, and other tobacco products.¹⁶⁷

Menthol was first used as a cigarette additive in 1925, with sales totaling only 3% of the overall U.S. cigarette market prior to 1956.¹⁶⁸ Once the tobacco industry realized menthol made cigarettes more palatable upon initiation and could be used to retain smokers, marketing strategies were refined to target youth and certain groups (See Priority Populations Section).^{169,170}

There are approximately 19 million Americans who smoke menthol cigarettes, including 1.1 million adolescents, and sales of these products comprise between 28% and 34% of the U.S. cigarette market.^{171,172} Common menthol cigarette brands include Kool, Newport, and Salem, although the cigarette market is highly consolidated among three companies: Altria (parent company of Phillip Morris, Marlboro products), Reynolds American and Lorillard.¹⁷³

Lorillard’s brand of mentholated cigarettes, Newport, historically outpaced all other menthol brands and its main product line. In 2014, Reynolds acquired Lorillard in a merger allegedly designed to give Reynolds access to the Newport product.¹⁷⁴

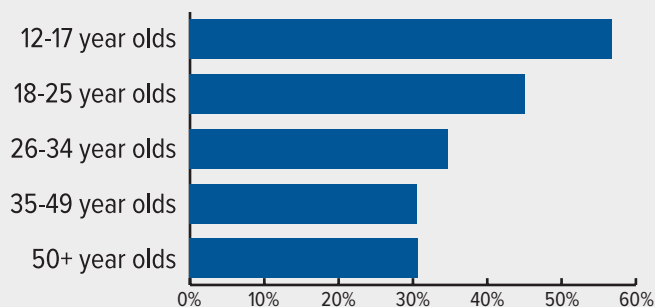
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Menthol Cigarettes Use by Certain Groups

Analyses of internal tobacco industry documents reveal that the tobacco industry knowingly manipulated the menthol content in cigarettes to account for sensory preferences among younger and more experienced smokers,¹⁷⁵ understanding that the amount of menthol in a cigarette changes how the cigarette is smoked and how pleasurable it is to the smoker.¹⁷⁶ Menthol enhances the sensory experience or “throat grab” of the smoke, and through desensitization, reduces the irritating effect of nicotine, leading to a positive association by novice smokers.^{177,178}

Research indicates that menthol cigarettes are a “starter” product for youth and use of menthol is more likely among those who are recent initiates.¹⁷⁹⁻¹⁸³ Using data from the National Surveys on Drug Use and Health, one study found that menthol cigarette use is more common among 12–17 year olds (56.7%) and 18–25 year olds (45.0%) than among 26–34 year olds, 35–49 year olds, and 50+ year olds (range of 30.5% to 34.7%). The study also found that while adolescent and young adult use of non-menthol cigarettes has decreased from 2004–2010, menthol smoking rates have remained constant (adolescents) and increased (young adults) over this same period.¹⁸⁴

MENTHOL CIGARETTE USE AMONG PAST 30-DAY U.S. SMOKERS BY AGE



Source: Giovino GA, et al. (2015)

Menthol users are associated with being younger, female, and of non-Caucasian race/ethnicity, and use is especially high among minority youth. A review of three national data sets determined that more than 80% of adolescent African American smokers and more than half of adolescent Latino smokers use menthol cigarettes. Menthol cigarettes are also used by more than half of Asian American middle-school smokers.¹⁸⁵ In addition, an analysis on the 2008 and 2009 National Survey on Drug Use and Health found that an elevated prevalence of menthol use was found among persons with severe psychological distress,¹⁸⁶ while another study indicated that menthol is disproportionately used among young adult tobacco users with mental health problems.¹⁸⁷

Strong evidence also suggests that use of mentholated cigarettes during childhood and early adulthood increases nicotine addiction and dependence,¹⁸⁸⁻¹⁹⁰ with the FDA surmising that youth appeared to be particularly vulnerable to the effects of menthol cigarette smoking.¹⁹¹ Further, evidence indicates that menthol smokers in general, and African American smokers in particular, are less likely to quit successfully than non-menthol cigarette users.¹⁹²⁻¹⁹⁵

In 2011, after an extensive survey of the literature and research, the FDA released a report concluding that menthol cigarettes are “starter” products and increase smoking initiation among youth and young adults, lead to greater addiction, and can inhibit quitting smoking.¹⁹⁶ The FDA concluded that the removal of menthol cigarettes from the marketplace would greatly benefit public health.

Health Impacts of Menthol Cigarettes

Tobacco industry documents and empirical studies suggest that consumers, particularly younger users, tend to perceive menthol cigarettes as less hazardous than non-menthol cigarettes.¹⁹⁷ However, menthol cigarettes are not safer than non-menthol cigarettes and carry many of the same health risks: smokers are more likely than nonsmokers to develop heart disease, stroke, lung cancer and other respiratory diseases.¹⁹⁸

Due to the anesthetic effect of mentholated cigarettes, evidence suggests that they may facilitate deeper and more prolonged inhalation of toxic cigarette smoke.¹⁹⁹ Additionally, by reducing airway pain and irritation, continuous menthol smoking can mask the early warning symptoms of smoking-induced respiratory problems.²⁰⁰ Still other evidence has associated menthol with inhibiting the metabolism of nicotine in the body, and smokers of menthol cigarettes have been found with higher levels of cotinine and carbon monoxide in the bloodstream as compared to non-menthol smokers.^{201,202}

Menthol in high concentrations may also inhibit the detoxification of tobacco-specific carcinogens (NNAL), which could increase the risk of cancer,²⁰³ although the FDA in its 2013 report did not find enough evidence to support this claim. Lastly, a study of current smokers using data from the 2001-2008 U.S. National Health and Nutrition Examination Surveys found significantly increased odds of stroke for smokers of mentholated cigarettes compared with non-mentholated cigarette smokers.²⁰⁴

Priority populations are groups that have higher rates of tobacco use than the general population, experience greater secondhand smoke exposure at work and at home, are disproportionately targeted by the tobacco industry, and have higher rates of tobacco-related disease compared to the general population.²⁰⁵ This section describes the evidence which indicates particular priority populations (i.e., youth, racial/ethnic minorities, and other targeted groups) are more likely to initiate and use flavored and mentholated tobacco products.

Adolescents (12-17) and Young Adults (18-26)

A multitude of research indicates that flavored products appeal to youth and young adults leading to increased use for this population. Despite prevalence rates for cigarette use trending downward for youth, research shows that more youth are using other flavored tobacco products. A national study found that 80.8% of 12-17 year olds who had ever used a tobacco product initiated tobacco use with a flavored product, and that 79.8% of current tobacco users had used a flavored tobacco product in the past month.²⁰⁶ Additionally, an examination of young adult tobacco users (18-34 year olds) found that 18.5% currently use a flavored tobacco product, with younger age being a predictor of flavored tobacco product use: young adults aged 18-24 year olds had an 89% increased odds of using a flavored tobacco product compared to those aged 25-34 year olds.²⁰⁷

Menthol cigarettes carry similar results. Among cigarette smokers, menthol cigarette use was more common among 12-17 year olds (56.7%) and 18-25 year olds (45%) than among 26-34 year olds, 35-49 year olds, and 50+ year olds (range of 30.5% - 34.7%).²⁰⁸ In fact, adolescents smoke menthol cigarettes at a higher rate than any other age group.²⁰⁹

Flavors Make Using Tobacco More Enticing and Harder to Quit

Flavorings and menthol additives mask the naturally harsh taste of tobacco, making it easier for youth to initiate and sustain tobacco use.^{210,211} A 2014 review of internal tobacco industry documents indicate that menthol and candy-like

flavors in little cigars and cigarillos were used to increase product appeal to beginning smokers by masking the heavy cigar taste, reducing throat irritation, and making the cigar smoke easier to inhale.²¹²

The majority of youth ever-users reported that the first product they had used was flavored, including 88.7% of ever hookah users, 81.0% of ever e-cigarette users, 65.4% of ever users of any cigar type, and 50.1% of ever cigarette smokers. Youth consistently reported product flavoring as a reason for use across all product types, including e-cigarettes (81.5%), hookahs (78.9%), cigars (73.8%), smokeless tobacco (69.3%), and snus pouches (67.2%).²¹³

Studies indicate that individuals who begin smoking at a younger age are more likely to develop a more severe addiction to nicotine than those who start later.²¹⁴ Further, both the FDA and the U.S. Surgeon General have warned that flavored tobacco products help new users establish habits that can lead to long-term addiction.^{215,216} A recent study of middle and high school students supports this: among cigar smokers, prevalence of no-intention-to-quit tobacco use was higher among flavored-little-cigar users (59.7%) than nonusers (49.3%).²¹⁷ Additionally, youth who initiate smoking with menthol cigarettes are more likely to become regular, addicted smokers and to show higher measures of dependence than youth who initiate with non-menthol cigarettes.²¹⁸ Furthermore, a nationally representative sample of U.S. youth tobacco users found that dual use (i.e., use of two tobacco product categories) was the most prevalent pattern (30.5%) detected among these users.²¹⁹

Flavored and Mentholated Tobacco Products are Heavily Marketed with Sweet Flavors, Colorful Packaging, and Brand Recognition

The U.S. Surgeon General concluded that, "... advertising and promotional activities by the tobacco companies cause the onset and continuation of smoking among adolescents and young adults."²²⁰ Tobacco industry documents containing information about tobacco companies' advertising, manufacturing, marketing, and research activities demonstrate a strategic focus on designing brand varieties with particular appeal to youth, such as mentholated, candy-flavored, and fruit-flavored brands.²²¹

For example, one internal industry memo described sweetened products as “... for younger people, beginner cigarette smokers, teenagers ... when you feel like a light smoke, want to be reminded of bubblegum.”²²²

Several flavored tobacco products share the same names, packaging and logos as popular candy brands like Jolly Rancher, Kool-Aid, and Life Savers.²²³ They are also engineered with the same flavoring agents as those used in popular kid-friendly candy and drink products such as Life Savers and Jolly Ranchers, providing a “familiar, chemical-specific flavor cue” to the user.²²⁴ Bright packaging and product placement at the register, near candy, and often at children’s eye-level, increases tobacco flavored products’ visibility to kids.²²⁵ As stated in an industry publication, “While different cigars target a variety of markets, all flavored tobacco products tend to appeal primarily to younger consumers.”²²⁶

The tobacco industry has aggressively used branding and advertising as a method to exploit particular youth populations and use of mentholated cigarettes. The vast majority of adolescents who smoke before the age of 18 use the three most heavily advertised brands. One of these heavily advertised brands, Newport, is the cigarette brand leader among African-American youth in the United States. Nearly eight out of every ten African American youth smokers smoke Newport cigarettes.²²⁷

Many Youth Believe Flavored or Mentholated Tobacco Products are Safer than Non-flavored Tobacco Products

Multiple studies of youth perception indicate that many younger users falsely believe that flavored or mentholated tobacco products are safer than non-flavored tobacco products. A recent study found that people younger than 25 years of age were more likely to say that hookahs and e-cigarettes were safer than cigarettes,²²⁸ and that mentholated cigarettes were less hazardous than

non-menthol cigarettes.²²⁹ This finding has been seen in other studies that show cigar smokers misperceive as being less addictive, more “natural,” and less harmful than cigarettes.²³⁰

Recent research indicates that some teens may be more likely to use e-cigarettes prior to using combustible tobacco because of beliefs that e-cigarettes are not harmful or addictive, as a result of youth targeted marketing and availability of e-cigarettes in flavors that are attractive to youths.²³¹ A longitudinal study of e-cigarette use found that adolescents who use e-cigarettes are more likely to start smoking cigarettes, and that risk for use was greater for students who had the impression that e-cigarettes were less dangerous than regular cigarettes.²³²

Racial and Ethnic Minorities

Menthol Cigarette Use is Higher Among African Americans, Especially Minority Youth

Significant disparities exist in the use of menthol flavored tobacco products by certain racial and ethnic minority communities. African American smokers are far more likely to smoke menthol cigarettes than smokers of other racial and ethnic groups, and this trend is pervasive across all categories, regardless of stratification by income, age, gender, region, education, etc. African American youth are especially impacted: more than 80% of all African American adolescents who smoke use menthol cigarettes—the highest usage among all minority groups.²³³

Although African Americans usually smoke fewer cigarettes and start smoking cigarettes at an older age, their smoking-related morbidity and mortality is significantly higher than white smokers.^{234,235} This disparity in tobacco-related morbidity and mortality among African Americans may partly result from the greater use of menthol cigarettes among African American smokers.²³⁶ A smoking simulation model predicted that a 10% quit rate among menthol smokers



would save thousands of lives, preventing more than 4,000 smoking-attributable deaths in the first ten years, and over 300,000 lives over the next 40 years. Approximately 100,000 of those lives saved would be African Americans.²³⁷

In addition, menthol cigarettes are used disproportionately by other minority youth groups. Data from the National Survey on Drug Use and Health (NSDUH) shows that among adolescent smokers aged 12-17 years, 51.5% of Asians, 47.0% of Hispanics, and 41.4% of Native Hawaiians/Pacific Islanders reported smoking a menthol brand in the past 30 days.²³⁸ Further, other research shows that during the last year of high school, one third of Asian American youth are smokers. Of these youth, 60% report that their usual brand of cigarettes is a menthol brand.²³⁹

Lower Cessation Rates Common Among Minority Menthol Smokers

Research indicates that menthol smoking can lead to lower rates of cessation outcomes, especially for non-white smokers.²⁴⁰ Generally, quitting menthol cigarettes is particularly difficult because menthol smokers have to overcome the dependency on nicotine as well as positive associations with menthol itself.²⁴¹ In addition, one study found that among African Americans and Hispanic/Latino current smokers, those who smoked mentholated cigarettes were more likely to be seriously considering quitting smoking in the next six months and to think that they would quit smoking successfully in the next six months compared to non-menthol smokers. However, the evidence did not support this outcome: African Americans and Hispanics/

Latinos who smoked mentholated cigarettes were to quit successfully for at least six months compared to those who smoked non-mentholated cigarettes.²⁴²

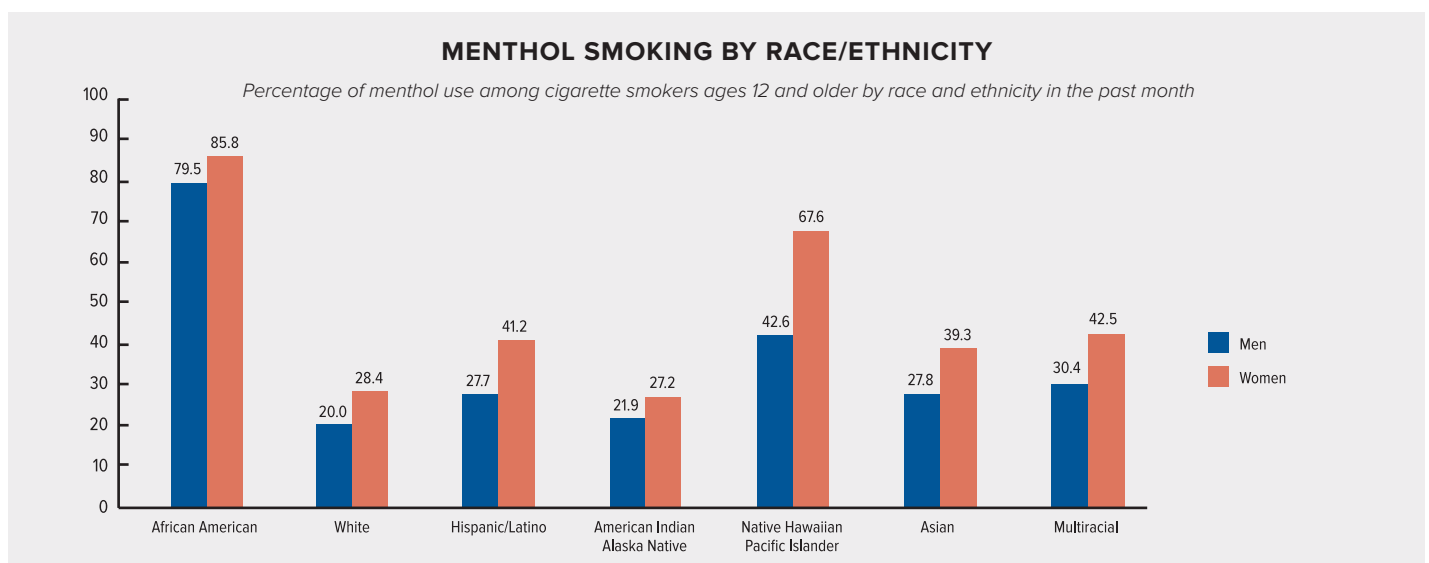
Item 6.

Another study found that despite smoking fewer cigarettes per day, African American and Hispanic/Latino menthol smokers were less likely to successfully quit as compared to non-menthol smokers within the same ethnic/racial group.²⁴³ This suggests that lower rates of cessation among these populations may be linked to higher rates of smoking mentholated cigarettes.

Tobacco Industry Has a Long History of Targeting Racial and Ethnic Minorities

Through strategic marketing and price discounting, the tobacco industry has targeted communities of color with mentholated tobacco products and flavored, cheap little cigars and cigarillos. Price discounting contributes to tobacco-related health disparities because vulnerable populations including youth, racial minorities, and persons with low incomes are more likely to purchase tobacco products through affordable discounts.^{244,245}

In particular, the tobacco industry has aggressively targeted African American populations through the use of multiple advertising mediums and branding to convey sociocultural messages around menthol products.²⁴⁶ Research indicates that African American neighborhoods have a disproportionate number of tobacco retailers,²⁴⁷ many which employ various point-of-sale strategies, such as price discounting, to encourage initiation and use in these communities.



Source: Substance Abuse and Mental Health Administration. The National Survey on Drug Use (NSDUH) and Health Report: Use of Menthol Cigarettes. November 2009.

One study found that a higher proportion of African American and young adult residents was associated with more exterior little cigar advertising and cheaper prices, with 95% of these stores selling little cigars in fruit, candy, and wine flavors.²⁴⁸

Other communities of color have similarly been targeted by industry. A review of tobacco industry documents suggests that RJ Reynolds, one of the leading cigarette manufacturers, developed a sophisticated surveillance system to track the market behavior of Hispanic/Latino smokers and understand their cultural values and attitudes. This information was translated into targeted marketing campaigns for the Winston and Camel brands, and in 2005, RJ Reynolds launched a music-themed marketing campaign to target African American and Hispanic/Latino youths.²⁴⁹ Empirical research examining menthol and non-menthol advertising also found a higher proportion of menthol advertisements out of all cigarette advertisements in Hispanic/Latino neighborhoods and magazines, than in non-Hispanic white neighborhoods and magazines.²⁵⁰

Since the mid-1980s, tobacco companies have targeted Asian Americans and Pacific Islanders in their marketing campaigns. The tobacco industry considered these groups to be a “potential gold mine” because of high rates of smoking in Asia and the Pacific, concentration in certain geographic regions, and the high proportion of Asian retailers.²⁵¹ A tobacco industry document review provided further evidence that Asian Americans and Hawaiian/Pacific Islanders were targeted in menthol marketing by cigarette companies.²⁵²

Lesbian, Gay, Bisexual, and Transgender (LGBT)

Similar to other priority populations, LGBT individuals have been aggressively targeted by tobacco industry through advertising and sponsorships on specific themes that resonate within the community: liberation, individualism, social success, and acceptance.²⁵³ For example, an ad for Camel Snus directed at LGBT audiences to “Take pride in your flavor,” and according to initial assessments of prevalence data, this industry messaging may be working.

Overall, LGBT individuals smoke cigarettes at a higher rate than the general population.^{254,255} In a national study conducted in 2009-2010, 71% of LGBT young adult smokers

(18-25) reported smoking menthol cigarettes.²⁵⁶ In **Item 6.** current menthol cigarette smoking was higher among adults (9.7%) than heterosexual/straight adults (4.2%), and LGBT women are more likely to smoke menthols cigarettes than straight women (42.9% vs.32.4%).²⁵⁷

LGBT individuals are also more likely to smoke flavored cigars (8.2%) than heterosexual/straight individuals (2.7%).²⁵⁸ Furthermore, 4.5% of LGBT adults use e-cigarettes, compared to 1.9% of heterosexuals.²⁵⁹ A Missouri study comparing heterosexual general population youth and LGBT youth found that these two groups differed significantly on many tobacco use related factors. General population youth initiated smoking at a younger age, and LGBT youth did not catch up in smoking initiation until age 15 or 16. However, LGBT youth (41.0%) soon surpassed heterosexual general population youth (11.2%) in initiation and proportion of current smokers and were more likely to use cigars/cigarillos and be poly-tobacco users.²⁶⁰ The latter finding is supported in a representative sample of U.S. high school youth that examined the concurrent use of multiple tobacco products: data indicated the prevalence of poly-tobacco use to be 21.7% among sexual minority youth compared with only 12.1% among heterosexual youth.²⁶¹

Women

Over 18 million adult women and 1.3 million girls in the U.S. currently smoke cigarettes.²⁶² Although men are more likely to smoke cigarettes than women, that is not the case with menthol cigarettes: women are 1.6 times more likely to smoke menthol cigarettes than men, and this pattern is seen across all racial/ethnic groups, except among American Indians/Alaskan Natives.²⁶³

Research suggests that among women smokers, menthol cigarette use is associated with higher tobacco dependence. More female menthol smokers, as compared to female non-menthol smokers, reported smoking their cigarette within five minutes of waking up in the morning and fewer quit attempts greater than 90 days.^{264,265}

A review of tobacco industry documents show extensive research was conducted on female smoking patterns, needs, and product preferences, including menthol brands. The tobacco industry has targeted some menthol brands to women, using women’s social and cosmetic concerns for cleanliness and freshness, and incorporated these themes in menthol cigarette product design and marketing.²⁶⁶

California and its tobacco control program have achieved great success in reducing the burden of tobacco use: over a 25 year period, cigarette consumption has decreased in California by 65%,²⁶⁷ with over 1 million lives saved²⁶⁸ and \$134 billion in averted health care costs.²⁶⁹ Despite this progress, tobacco use remains the chief risk factor for the leading causes of death in the state,²⁷⁰ and evidence shows that the tobacco industry continues to engage in efforts that entice a new generation of users. A foundation of this strategy is the use of candy and fruit flavors and cooling additives in tobacco products that are intended to attract and retain users by masking the naturally harsh taste of tobacco. More specifically, the combination of flavorings, the introduction of novel tobacco products, and deployment of predatory marketing has presented new public health threats in the form of increased initiation and sustained use of tobacco, particularly among certain vulnerable groups.

Contrary to popular beliefs, flavorings do not reduce the health impacts and risks associated with tobacco use, and are not safer than non-flavored tobacco products;²⁷¹ in fact, the literature suggests that flavored and mentholated tobacco products pose significant public health risks because they make these toxic tobacco substances more appealing and palatable upon use. There is also a

growing body of research which shows that these chemical flavorings and additives may present another level of exposure that has not been deemed safe for inhalation.

Furthermore, the literature shows that the tobacco industry has manipulated and marketed these flavor and menthol tobacco products to account for user preferences that skew younger, and reinforce sociocultural messages with priority populations. Research supports the finding that flavors and menthol tobacco products are “starter” products that establish daily habits and increase addiction to tobacco products, make it harder to quit, and increase use of multiple tobacco products concurrently.

Consumption of flavored tobacco products such as cigars, smokeless tobacco, hookah tobacco, and liquid nicotine solutions (used in electronic smoking devices) have increased in recent years, while menthol cigarettes continue to corner a large part of the U.S. cigarette market. Strong evidence supports the finding that youth, certain racial/ethnic groups, and other targeted priority populations (i.e., LGBT and women) are particularly vulnerable to sweet flavors and menthol, and are largely driving this increased uptake and sustained use of flavored tobacco products.

- 1 Tobacco Education and Research Oversight Committee. 2014. Changing Landscape: Countering New Threats, 2015-2017; [cited 2016 Jan 16]. Available from http://www.cdph.ca.gov/programs/tobacco/Documents/TEROC/Master%20Plan/MasterPlan_15-
- 2 Campaign for Tobacco-Free Kids. 2015. The Toll of Tobacco in California; [cited 2016 Jan 16]. Available from http://www.tobaccofreekids.org/facts_issues/toll_us/California.
- 3 California Department of Public Health, California Tobacco Control Program. 2015. California Tobacco Facts and Figures in 2015; [cited 2016 Jan 16]. Available from <https://www.cdph.ca.gov/programs/tobacco/Documents/Resources/Fact%20Sheets/2015FactsFigures-web2.pdf>.
- 4 Lee et al. Menthol: Putting the pieces together. *Tobacco Control*. 2011;20:ii1-ii7.
- 5 FDA (Food and Drug Administration). 2011. Fact Sheet: Flavored Tobacco Products; [cited 2016 Jan 16]. Available from <http://www.fda.gov/downloads/TobaccoProducts/Labeling/ProductsIngredientsComponents/UCM183215.pdf>.
- 6 FDA. 2009. Candy and fruit flavored cigarettes now illegal in United States; step is first under new tobacco law. [cited 2016 Jan 16]. Available from <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm183211.htm>.
- 7 DHHS (U.S. Department of Health and Human Services). 2012. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Centers for Disease Control and Prevention; [cited 2016 Mar 28]. Available from <http://www.ncbi.nlm.nih.gov/books/NBK99237/>.
- 8 National Cancer Institute. 2010. Cigar Smoking and Cancer. National Institutes of Health; [cited 2016 Mar 28]. Available from <http://www.cancer.gov/about-cancer/causes-prevention/risk/tobacco/cigars-fact-sheet>.
- 9 Maxwell JC. 2013. The Maxwell Report: Cigar Industry in 2013. Richmond, VA; [cited 2016 Mar 28].
- 10 Campaign for Tobacco-Free Kids. 2016. The Rise of Cigars and Cigar-Smoking Harms; [cited 2016 Mar 28]. Available from <https://www.tobaccofreekids.org/research/factsheets/pdf/0333.pdf>.
- 11 Campaign for Tobacco-Free Kids. 2016. Flavored Tobacco Products Attract Kids; [cited 2016 Mar 28]. Available from <https://www.tobaccofreekids.org/research/factsheets/pdf/0383.pdf>.
- 12 CDC (Centers for Disease Control and Prevention). We Can Make the Next Generation Tobacco Free. *CDC Features*; [cited 2016 Mar 28]. Available from <http://www.cdc.gov/Features/YouthTobaccoUse/>.
- 13 Kostygina et al. Tobacco industry use of flavors to recruit new users of little cigars and cigarillos. *Tobacco Control*. 2016;25:66-74.
- 14 McAfee, Tim. 2014 May 15. Ending Tobacco Use in the United States – Our Past, Present and Future. Testimony before the U.S. Senate Health, Education, Labor and Pensions Committee; [cited 2016 Mar 28]. Available from <http://www.cdc.gov/washington/testimony/2014/t20140515.htm>.
- 15 Brown et al. Candy Flavorings in Tobacco. *New England Journal of Medicine*. 2014;370:2250-2252.
- 16 Maxwell JC. 2013. The Maxwell Report: Cigar Industry in 2013. Richmond, VA; [cited 2016 Mar 28].
- 17 Eaton et al. Youth risk behavior surveillance-United States, 2011. *Morbidity and Mortality Weekly Report*. 2012;61(4):1-162.
- 18 SAMHSA (Substance Abuse and Mental Health Services Administration). 2013. Results from the 2012 National Survey on Drug Use and Health: Summary of National Findings. *NSDUH Series*. 2013;H-46(13-4795).
- 19 Wadley, Jared. 2015. Cigarillo use increases estimates of teen smoking rates by half. *University of Michigan News Service*; [cited 2016 Mar 28]. Available from http://www.monitoringthefuture.org/pressreleases/15cigarillopr_complete.pdf.
- 20 Ambrose et al. Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014. *Journal of the American Medical Association*. 2015;314(17):1871-1873.
- 21 King et al. Flavored-little-cigar and flavored cigarette use among U.S. middle and high school students. *J Adolesc Health*. 2014;54(1):40-6.
- 22 King et al. Flavored cigar smoking among U.S. adults: Flavored Cigar Smoking Among U.S. Adults: Findings from the 2009–2010 National Adult Tobacco Survey. *Nicotine & Tobacco Research*. 2013;15:608–14.
- 23 Delnevo et al. Preference for flavoured cigar brands among youth, young adults and adults in the USA. *Tobacco Control*. 2015;24(4):389-94.
- 24 National Cancer Institute. 2010. Cigar Smoking and Cancer. National Institutes of Health; [cited 2016 Mar 28].

- Available from <http://www.cancer.gov/about-cancer/causes-prevention/risk/tobacco/cigars-fact-sheet>.
- 25 National Cancer Institute. 1998. Smoking and Tobacco Control Monograph 9: Cigars: Health Effects and Trends. *Behavioral Research Program*. [cited 2016 Mar 28]. Available from <http://www.cancercontrol.cancer.gov/tcrb/monographs/9/index.html>.
 - 26 National Cancer Institute. 2010. Cigar Smoking and Cancer. National Institutes of Health; [cited 2016 Mar 28]. Available from <http://www.cancer.gov/about-cancer/causes-prevention/risk/tobacco/cigars-fact-sheet>.
 - 27 Chang et al. Systematic review of cigar smoking and all cause and smoking related mortality. *BMC Public Health*. 2015;15:390.
 - 28 National Cancer Institute. 1998. Smoking and Tobacco Control Monograph 9: Cigars: Health Effects and Trends. *Behavioral Research Program*. [cited 2016 Mar 28]. Available from <http://www.cancercontrol.cancer.gov/tcrb/monographs/9/index.html>.
 - 29 CDC. Cigars Fact Sheet. 2015.[cited 2016 Mar 28]. Available from http://www.cdc.gov/tobacco/data_statistics/fact_sheets/tobacco_industry/cigars/.
 - 30 American Cancer Society. 2014. Tobacco Related Cancers Fact Sheet; [cited 2016 Mar 28]. Available from <http://www.cancer.org/cancer/cancercauses/tobaccocancer/tobacco-related-cancer-fact-sheet>.
 - 31 Chen et al. Biomarkers of exposure among U.S. cigar smokers: An analysis of 1999-2012 National Health and Nutrition Examination Survey (NHANES) Data. *Cancer Epidemiol Biomarkers Prev*. 2014; 23(12):2906-15.
 - 32 CDC. Cigars Fact Sheet. 2015.[cited 2016 Mar 28]. Available from http://www.cdc.gov/tobacco/data_statistics/fact_sheets/tobacco_industry/cigars/.
 - 33 National Cancer Institute. 1998. Smoking and Tobacco Control Monograph 9: Cigars: Health Effects and Trends. *Behavioral Research Program*. [cited 2016 Mar 28]. Available from <http://www.cancercontrol.cancer.gov/tcrb/monographs/9/index.html>.
 - 34 Nonnemaker et al. Mortality and Economic Costs from Regular Cigar Use in the United States. *American Journal of Public Health*. 2014;104(9): e86-e91.
 - 35 Baker et al. Health Risks Associated With Cigar Smoking. *Journal of the American Medical Association*. 2000;284(6):735-740.
 - 36 Rodriguez et al. The Association of Pipe and Cigar Use with Cotinine Levels, Lung Function, and Airflow Obstruction: A Cross-sectional Study. *Annals of Internal Medicine*. 2010;152:201-210.
 - 37 McDonald et al. Deposition of Cigar Smoke Particles in the Lung: Evaluation with Ventilation Scan Using mTc-Labeled Sulfur Colloid Particles. *Journal of Nuclear Medicine*. 2002;43:1591-1595.
 - 38 National Cancer Institute. 1998. Smoking and Tobacco Control Monograph 9: Cigars: Health Effects and Trends. *Behavioral Research Program*. [cited 2016 Mar 28]. Available from <http://www.cancercontrol.cancer.gov/tcrb/monographs/9/index.html>.
 - 39 NCI (1998).
 - 40 Jolly DH. Exploring the use of little cigars by students at a historically black university. *Preventing Chronic Disease*. 2008;5(3):1-9.
 - 41 NCI (1998).
 - 42 World Health Organization. 2007. Smokeless Tobacco and Some Tobacco-Specific N-Nitrosamines IARC *Monographs on the Evaluation of Carcinogenic Risks to Humans*. 2007;89(PDF–3.18 MB).
 - 43 U.S. Department of Health and Human Services. 2012. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Centers for Disease Control and Prevention; [cited 2016 Mar 28]. Available from <http://www.ncbi.nlm.nih.gov/books/NBK99237/>.
 - 44 Campaign for Tobacco-Free Kids. 2016. Smokeless Tobacco and Kids; [cited 2016 Mar 28]. Available from <https://www.tobaccofreekids.org/research/factsheets/pdf/0003.pdf>.
 - 45 Maxwell JC. 2011. The Maxwell Report: Cigar Industry in 2011. Richmond, VA; [cited 2016 Mar 28].
 - 46 Centers for Disease Control and Prevention. 2015. Economic Facts About U.S. Tobacco Production and Use; [cited 2016 Jan 16]. Available from http://www.cdc.gov/tobacco/data_statistics/fact_sheets/economics/econ_facts/.
 - 47 Delnevo et al. Examining market trends in the United States smokeless tobacco use: 2005 – 2011. *Tobacco Control*. 2014;23(2):107-12.
 - 48 Connolly G. The Marketing of Nicotine Addiction by One Oral Snuff Manufacturer. *Tobacco Control*. 1995;4(1):73-79.

- 49 National Cancer Institute. 2014. Smokeless Tobacco and Public Health: A Global Perspective. NIH Publication No. 14-7983; [cited 2016 Mar 28]. Available from <http://cancercontrol.cancer.gov/brp/tcrb/global-perspective/SmokelessTobaccoAndPublicHealth>.
- 50 *Ibid.*
- 51 CDC. Surveillance for Selected Tobacco-Use Behaviors—United States, 1900-1994. *Morbidity and Mortality Weekly Report*. 1994;43(SS-03).
- 52 CDC. Youth Risk Behavior Surveillance—United States, 2013. *Morbidity and Mortality Weekly Report*. 2014;63(4).
- 53 SAMHSA. 2014. Results from the 2013 National Survey on Drug Use and Health: Summary of National Findings. *NSDUH Series*. 2013;H-48(14-4863).
- 54 *Ibid.*
- 55 DHHS. 2014. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General; [cited 2016 Mar 28]. Available at <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/>.
- 56 Tomar SL, Giovino GA, Eriksen MP. Smokeless tobacco brand preference and brand switching among US adolescents and young adults. *Tobacco Control*. 1995;4(1):67–72.
- 57 Tomar SL. Is use of smokeless tobacco a risk factor for cigarette smoking? The U.S. experience. *Nicotine Tob Res*. 2003 Dec; 5(4): 561-569.
- 58 Grøtvedt et al. Patterns of snus and cigarette use: a study of Norwegian men followed from age 16 to 19. *Tobacco Control*. 2013;22(6):382-388.
- 59 Mejia AB, Ling PM. Tobacco industry consumer research on smokeless tobacco users and product development. *Am J Public Health*. 2010;100:78–87.
- 60 Carpenter CM, Connolly GN, Ayo-Yusuf OA, Wayne GF. Developing smokeless tobacco products for smokers: an examination of tobacco industry documents. *Tobacco Control*. 2009;18:54–9.
- 61 Rutqvist LE. Population-based survey of cessation aids used by Swedish smokers. *Harm Reduct J*. 2012;9:38.
- 62 DHHS. 2010. How tobacco smoke causes disease: the biology and behavioral basis for smoking-attributable disease: a report of the Surgeon General. [cited 2016 Mar 28]. Available from <http://www.ncbi.nlm.nih.gov/books/NBK53017/>.
- 63 Klesges et al. Tobacco use harm reduction, elimination, and escalation in a large military cohort. *American Journal of Public Health*. 2010;100(12):2487–92.
- 64 Tomar SL, Alpert HR, Connolly GN. Patterns of dual use of cigarettes and smokeless tobacco among US males findings from national surveys. *Tobacco Control*. 2010;19(2):104–9.
- 65 Cobb CO, Weaver MF, Eissenberg T. Evaluating the acute effects of oral, non-combustible potential reduced exposure products marketed to smokers. *Tobacco Control*. 2010;19:367–73.
- 66 Tomar SL, Fox BJ, Severson HH. Is smokeless tobacco use an appropriate public health strategy for reducing societal harm from cigarette smoking? *Int J Environ Res Public Health*. 2009;6(1):10–24.
- 67 National Cancer Institute. 2014. Smokeless Tobacco and Cancer. [cited 2016 Mar 28]; Available from <http://www.cancer.gov/about-cancer/causes-prevention/risk/tobacco/smokeless-fact-sheet>.
- 68 Mayo Clinic. 2014. Health risks of chewing tobacco and other forms of smokeless tobacco. *Healthy Lifestyle: Quit Smoking*; [cited 2016 Mar 28]; Available from <http://www.mayoclinic.org/healthy-lifestyle/quit-smoking/in-depth/chewing-tobacco/art-20047428?pg=2>.
- 69 DHHS, Public Health Service. 2014. Report on Carcinogens, Thirteenth Edition. [cited 2016 Mar 28]. Available from <http://ntp.niehs.nih.gov/pubhealth/roc/roc13>.
- 70 National Cancer Institute. 2014. Smokeless Tobacco and Cancer. [cited 2016 Mar 28]; Available from <http://www.cancer.gov/about-cancer/causes-prevention/risk/tobacco/smokeless-fact-sheet>.
- 71 *Ibid.*
- 72 *Ibid.*
- 73 Chen C, Isabelle LM, Pickworth WB, Pankow JF. Levels of mint and wintergreen flavorants: smokeless tobacco products vs. confectionery products. *Food Chem Toxicol*. 2010;48(2):755–63.

- 74 Rainey CL, Conder PA, Goodpaster JV. Chemical characterization of dissolvable tobacco products promoted to reduce harm. *Agric Food Chem.* 2011;23;59(6):2745–51.
- 75 World Health Organization. 2007. Smokeless Tobacco and Some Tobacco-Specific N-Nitrosamines IARC *Monographs on the Evaluation of Carcinogenic Risks to Humans.* 2007;89(PDF–3.18 MB).
- 76 Stepanov I, Jensen J, Hatsukami D, Hecht SS. New and traditional smokeless tobacco: comparison of toxicant and carcinogen levels. *Nicotine Tob Res.* 2008;10(12):1773–82.
- 77 Stanfill et al. Global surveillance of oral tobacco products: total nicotine, unionised nicotine and tobacco-specific N-nitrosamines. *Tob Control.* 2011;20(3):e2.
- 78 World Health Organization. 2007. Smokeless Tobacco and Some Tobacco-Specific N-Nitrosamines IARC *Monographs on the Evaluation of Carcinogenic Risks to Humans.* 2007;89(PDF–3.18 MB).
- 79 Hatsukami DK, Ebbert JO, Feuer RM, Stepanov I, Hecht SS. Changing smokeless tobacco products: new tobacco delivery systems. *Amer J Prev Med.* 2007;33(6):S368–78.
- 80 Boffetta P, Hecht S, Gray N, Gupta P, Straif K. Smokeless tobacco and cancer. *Lancet Oncol.* 2008;9(7):667–75.
- 81 Scientific Committee on Emerging and Newly Identified Health Risks. 2008. Health effects of smokeless tobacco products. [cited 2016 Mar 28]. Available from http://ec.europa.eu/health/ph_risk/committees/04_scenihr/docs/scenihr_o_013.pdf.
- 82 World Health Organization. 2007. Smokeless Tobacco and Some Tobacco-Specific N-Nitrosamines IARC *Monographs on the Evaluation of Carcinogenic Risks to Humans.* 2007;89(PDF–3.18 MB).
- 83 Kallischnigg G, Weitkunat R, Lee PN. Systematic review of the relation between smokeless tobacco and non-neoplastic oral diseases in Europe and the United States. *BMC Oral Health.* 2008;8:13.
- 84 Hatsukami D, Severson H. Oral Spit Tobacco: Addiction, Prevention and Treatment. *Nicotine & Tobacco Research.* 1999;1:21-44.
- 85 WHO (2007)
- 86 *Ibid*
- 87 Tomar SL. Chewing Tobacco Use and Dental Caries Among U.S. Men. *Journal of the American Dental Association.* 1999;130:160.
- 88 WHO (2007)
- 89 Piano et al. Impact of smokeless tobacco products on cardiovascular disease: implications for policy, prevention, and treatment. *Circulation.* 2010;122(15):1520–44.
- 90 Boffetta P, Straif K. Use of smokeless tobacco and risk of myocardial infarction and stroke: systematic review with meta-analysis. *BMJ.* 2009;339:b3060.
- 91 DHHS. 2014. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General; [cited 2016 Mar 28]. Available at <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/>.
- 92 California Environmental Protection Agency. 2014. Safe Drinking Water and Toxic Enforcement Act of 1986: Chemicals Known to the State to Cause Cancer or Reproductive Toxicity. California Environmental Protection Agency, Office of Environmental Health Hazard Assessment.
- 93 DHHS. 2010. How tobacco smoke causes disease: the biology and behavioral basis for smoking-attributable disease: a report of the Surgeon General. [cited 2016 Mar 28]. Available from <http://www.ncbi.nlm.nih.gov/books/NBK53017/>.
- 94 Benowitz et al. Exposure to nicotine and carcinogens among Southwestern Alaskan Native cigarette smokers and smokeless tobacco users. *Cancer Epidemiol Biomarkers Prev.* 2012;21(6):934–42.
- 95 American Lung Association. 2007. An Emerging Deadly Trend: Waterpipe Tobacco Use. *Tobacco Policy Trend Alert*; [cited 2016 Mar 28]. Available from http://www.lungusa2.org/embargo/slati/Trendalert_Waterpipes.pdf.
- 96 CDC. 2015. Hookah Fact Sheet; [cited 2016 Mar 28]. Available from http://www.cdc.gov/tobacco/data_statistics/fact_sheets/tobacco_industry/hookahs.
- 97 Tobacco Technology, Inc. Manufacture and Technology. 2013. Indulge Your Flavors. *Tobacco Journal International.* Available from <http://www.tobaccotech.com/docs/tji0113-p67ff.pdf>.
- 98 American Lung Association. 2007. An Emerging Deadly Trend: Waterpipe Tobacco Use. *Tobacco Policy Trend Alert*; [cited 2016 Mar 28]. Available from http://www.lungusa2.org/embargo/slati/Trendalert_Waterpipes.pdf.

- 99 WHO (World Health Organization), Study Group on Tobacco Product Regulation. 2015. Waterpipe tobacco smoking: health effects, research needs and recommended actions by regulators—2nd ed. *TobReg Advisory Note*.
- 100 *Ibid*.
- 101 Cobb et al. Waterpipe Tobacco Smoking: An Emerging Health Crisis in the United States. *American Journal of Health Behavior*. 2010;34(3):275–85.
- 102 Barnett et al. Water pipe tobacco smoking among middle and high school students. *Am J Public Health*. 2009;99(11):2014–2019.
- 103 Primack BA, Walsh M, Bryce C, Eissenberg T. Water-pipe tobacco smoking among middle and high school students in Arizona. *Pediatrics*. 2009;123(2):e282–e288.
- 104 American College Health Association. 2009. Reference Group Data Report Fall 2008. National College Health Assessment II; [cited 2016 Mar 28]. Available from http://www.acha-ncha.org/docs/ACHA-NCHA_Reference_Group_Report_Fall2008.pdf.
- 105 Eissenberg T, Ward KD, Smith-Simone S, Maziak W. Waterpipe tobacco smoking on a US college campus: prevalence and correlates. *J Adolesc Health*. 2008;42(5):526–529.
- 106 Maziak W. The waterpipe: time for action. *Addiction*. 2008;103(11):1763–1767.
- 107 Maziak W, Ward KD, Afifi Soweid RA, Eissenberg T. Tobacco smoking using a waterpipe: a re-emerging strain in a global epidemic. *Tobacco Control*. 2004;13(4):327–333.
- 108 Primack BA, Sidani J, Agarwal AA, Shadel WG, Donny EC, Eissenberg TE. Prevalence of and associations with waterpipe tobacco smoking among US university students. *Annals of Behavioral Medicine*. 2008;36(1):81–86.
- 109 Smith et al. Increasing hookah use in California. *American Journal of Public Health*. 2011;101(10):1876-1879.
- 110 Soneji et al. Associations between initial water pipe tobacco smoking and snus use and subsequent cigarette smoking: results from a longitudinal study of US adolescents and young adults. *JAMA Pediatrics*. 2015;169(2):129-36.
- 111 Salloum et al. Waterpipe Tobacco Smoking and Susceptibility to Cigarette Smoking Among Young Adults in the United States, 2012–2013. *Prev Chronic Dis* 2016;13:150505.
- 112 WHO (World Health Organization), Study Group on Tobacco Product Regulation. 2015. Waterpipe tobacco smoking: health effects, research needs and recommended actions by regulators—2nd ed. *TobReg Advisory Note*.
- 113 Maziak et al. The global epidemiology of waterpipe smoking. *Tobacco Control*. 2015;24(Suppl 1):i3–12.
- 114 *Ibid*.
- 115 Ambrose et al. Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014. *Journal of the American Medical Association*. 2015;314(17):1871-1873.
- 116 Corey et al. Flavored Tobacco Product Use Among Middle and High School Students—United States, 2014. *Morbidity and Mortality Weekly Report*. 2015;64(38):1066-1070.
- 117 Morris et al. Peer Reviewed: Opportunities for Policy Interventions to Reduce Youth Hookah Smoking in the United States. *Preventing Chronic Disease*. 2012;9:120082.
- 118 Primack et al. Systematic Review and Meta-Analysis of Inhaled Toxicants from Waterpipe and Cigarette Smoking. *Public Health Reports*. 2016;131(1):76-85.
- 119 American Lung Association. 2007. An Emerging Deadly Trend: Waterpipe Tobacco Use. *Tobacco Policy Trend Alert*; [cited 2016 Mar 28]. Available from http://www.lungusa2.org/embargo/slati/Trendalert_Waterpipes.pdf.
- 120 American Lung Association. 2011. Hookah Smoking: A Growing Threat to Public Health Issue Brief. Smokefree Communities Project; [cited 2016 Mar 28]. Available from <http://www.lung.org/assets/documents/tobacco/hookah-policy-brief-updated.pdf>.
- 121 WHO Study Group on Tobacco Product Regulation. 2005. Waterpipe Tobacco Smoking: Health Effects, Research Needs and Recommended Actions by Regulators. *TobReg Advisory Note*. Available from http://www.who.int/tobacco/global_interaction/tobreg/Waterpipe%20recommendation_Final.pdf.
- 122 WHO (World Health Organization), Study Group on Tobacco Product Regulation. 2015. Waterpipe tobacco smoking: health effects, research needs and recommended actions by regulators—2nd ed. *TobReg Advisory Note*.

- 123 Cobb CO, Ward KD, Maziak W, Shihadeh AL, Eissenberg T. Waterpipe Tobacco Smoking: An Emerging Health Crisis in the United States. *American Journal of Health Behavior*. 2010;34(3):275–85.
- 124 Conference of the Parties to the WHO Framework Convention on Tobacco Control, Sixth session, Control and prevention of waterpipe tobacco products. Moscow, Russian Federation, 13–18 October 2014. Geneva: World Health Organization; 2014.
- 125 El Zaatari ZM, Chami HA, Zaatari, GS. Health effects associated with waterpipe smoking. *Tobacco Control*. 2015;24(1):i31–43.
- 126 Cobb CO, Ward KD, Maziak W, Shihadeh AL, Eissenberg T. Waterpipe Tobacco Smoking: An Emerging Health Crisis in the United States. *American Journal of Health Behavior* 2010;34(3):275–85.
- 127 Akl EA, Gaddam S, Gunukula SK, Honeine R, Jaoude PA, Irani J. The Effects of Waterpipe Tobacco Smoking on Health Outcomes: A Systematic Review. *International Journal of Epidemiology*. 2010;39:834–57.
- 128 Chapman, Ron. 2015. State Health Officer’s Report on E-Cigarettes: A Community Health Threat. California Department of Public Health, Tobacco Control Program. Available at <https://www.cdph.ca.gov/programs/tobacco/Documents/Media/State%20Health-e-cig%20report.pdf>.
- 129 Campaign for Tobacco-Free Kids. 2016. Electronic cigarettes: An overview of key issues; [cited 2016 Mar 28]. Available at <https://www.tobaccofreekids.org/research/factsheets/pdf/0379.pdf>.
- 130 *Ibid*.
- 131 Mincer, Jilian. 2015. The US vaporizer market is booming. *Business Insider*; [cited 2016 Mar 28]. Available from <http://www.businessinsider.com/r-in-rise-of-us-vape-shops-owners-eye-new-marijuana-market-2015-7>.
- 132 Craver R. 2013. Analyst projection: E-cigs will overtake traditional tobacco revenue at Reynolds in 2021. *Winston-Salem Journal*; [cited 2016 Mar 28]. Available from http://www.journalnow.com/business/business_news/local/analyst-projection-e-cigs-will-over-take-traditional-tobacco-revenue-at/article_948674ca-1ca9-11e3-a0ae-0019bb30f31a.html.
- 133 Mickle, Tripp. 2015. E-cigarette sales rapidly losing steam. *The Wall Street Journal*; [cited 2016 Mar 28]. Available from <http://www.wsj.com/articles/e-cig-sales-rapidly-lose-steam-1447798921>.
- 134 Zhu et al. Four Hundred and Sixty Brands of E-cigarettes and Counting: Implications for Product Regulation. *Tobacco Control*. 2014;23(3):iii3–iii9.
- 135 Campaign for Tobacco-Free Kids. 2016. Electronic Cigarettes and Youth; [cited 2016 Mar 28]. Available from <https://www.tobaccofreekids.org/research/factsheets/pdf/0382.pdf>.
- 136 CDC. Tobacco Use Among Middle and High School Students — United States, 2011–2014. *Morbidity and Mortality Weekly Report*. 2015;64(14):381–385.
- 137 Wadley, Jared. 2015. Most youth use e-cigarettes for novelty, flavors—not to quit smoking. University of Michigan News Service; [cited 2016 Mar 28]. Available from <http://ns.umich.edu/new/releases/23371-most-youth-use-e-cigarettes-for-novelty-flavors-not-to-quit-smoking>.
- 138 CDC. Frequency of Tobacco Use Among Middle and High School Students — United States, 2014. *Morbidity and Mortality Weekly Report*. 2015;64(38):1061–1065.
- 139 Bunnell et al. Intentions to smoke cigarettes among never-smoking U.S. middle and high school electronic cigarette users, National Youth Tobacco Survey, 2011–2013. *Nicotine & Tobacco Research*. 2015;17(2):228–35.
- 140 Ambrose et al. Flavored Tobacco Product Use Among US Youth Aged 12–17 Years, 2013–2014. *Journal of the American Medical Association*. 2015;314(17):1871–1873.
- 141 Chapman, State Health Officer’s Report on E-Cigarettes: A Community Health Threat (2015).
- 142 Willis et al. Longitudinal study of e-cigarette use and onset of smoking among high schools students in Hawaii. *Tobacco Control*. 2016;0:1–6.
- 143 Brian et al. Progression to Traditional Cigarette Smoking After Electronic Cigarette Use Among US Adolescents and Young Adults. *JAMA Pediatrics*. 2015;169(11):1018–1023.
- 144 Ji-Yeun Park, Dong-Chul Seo, and Hsien-Chang Lin. E-Cigarette Use and Intention to Initiate or Quit Smoking Among US Youths. *American Journal of Public Health*. 2016;106(4):672–678.

- 145 Cardenas et al. Use of electronic nicotine delivery systems and recent initiation of smoking among US youth. *Int J Public Health*. 2016;61(2):237-41.
- 146 National Institute on Drug Abuse. 2015. Electronic Cigarettes (e-Cigarettes). Drug Facts; [cited 2016 Mar 28]. Available from https://www.drugabuse.gov/sites/default/files/drugfacts_e-cigs_9_15.pdf.
- 147 Campaign for Tobacco-Free Kids. 2016. Electronic Cigarettes and Youth; [cited 2016 Mar 28]. Available from <https://www.tobaccofreekids.org/research/factsheets/pdf/0382.pdf>.
- 148 Chapman, State Health Officer's Report on E-Cigarettes: A Community Health Threat (2015).
- 149 England et al. Nicotine and the Developing Human: A Neglected Element in the Electronic Cigarette Debate. *Am J Prev Med*. 2015;49(2):286-293.
- 150 Tierney et al. Flavour chemicals in electronic cigarette fluids. *Tobacco Control*, 2015;0:1-6.
- 151 *Ibid*.
- 152 Allen et al. Flavoring Chemicals in E-Cigarettes: Diacetyl, 2,3-Pentanedione, and Acetoin in a Sample of 51 Products, Including Fruit-, Candy-, and Cocktail-Flavored E-Cigarettes. *Environmental Health Perspectives*. 2015.
- 153 Farsalinos et al., Evaluation of electronic cigarette liquids and aerosol for the presence of selected inhalation toxins. *Nicotine & Tobacco Research*. 2015;17(2):168-174.
- 154 Goniewicz et al. Cherry-flavoured electronic cigarettes expose users to the inhalation irritant, benzaldehyde. *Thorax*. 2016.
- 155 Mayer B. How much nicotine kills a human? Tracing back the generally accepted lethal dose to dubious self-experiments in the nineteenth century. *Archives of Toxicology*. 2014;88(1):5-7.
- 156 Chapman, State Health Officer's Report on E-Cigarettes: A Community Health Threat (2015).
- 157 Grana et al. E-Cigarettes: A Scientific Review. *Circulation*. 2014;129(19):1972-86.
- 158 King et al. Awareness and Ever Use of Electronic Cigarettes Among U.S. Adults, 2010-2011. *Nicotine & Tobacco Research*. 2013;15(9):1623-7.
- 159 Campaign for Tobacco-Free Kids. Electronic cigarettes: An overview of key issues. January 19, 2016.
- 160 King et al, *Nicotine & Tobacco Research* (2014).
- 161 Schoenborn et al. Electronic Cigarette Use Among Adults: United States, 2014. *National Center on Health Statistics (NCHS) Data Brief*. 2015(217).
- 162 Bullen et al. Electronic cigarettes for smoking cessation: a randomised controlled trial. *Lancet*. 2013;382:1629-37.
- 163 Grana et al. *Circulation* (2014).
- 164 Lee et al. *Tob Control* (2011).
- 165 Henningfield et al. Does menthol enhance the addictiveness of cigarettes? An agenda for research. *Nicotine & Tobacco Research*. 2003;5(1):9-11.
- 166 Giovino et al. (2004). Epidemiology of menthol cigarette use. *Nicotine & Tobacco Research*, 6 Suppl 1, S67-81.
- 167 Tobacco Products Scientific Advisory Committee (TPSAC). 2011. Menthol cigarettes and public health: Review of the scientific evidence and recommendations. FDA; [cited 2016 Mar 28]. Available at <http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf>.
- 168 Sutton CD, Robinson RG. The marketing of menthol cigarettes in the United States: populations, messages, and channels. *Nicotine & Tobacco Research*. 2004;6(1):S83-91.
- 169 Lee et al. *Tob Control* (2011).
- 170 DHHS. 1998. Tobacco use among U.S. racial/ethnic minority groups—African Americans, American Indians and Alaska Natives, Asian Americans and Pacific Islanders, and Hispanics: A report of the surgeon general; [cited 2016 Mar 28]. Available at http://www.cdc.gov/tobacco/data_statistics/sgr/1998/complete_report/pdfs/complete_report.pdf.
- 171 SAMHSA (Substance Abuse and Mental Health Services Administration). 2009. Results from the 2008 National Survey on Drug Use and Health: Summary of National Findings. NSDUH Series. 2013;H-36(09-4434).

- 172 SAMHSA. 2011. Recent Trends in Menthol Cigarette Use. The NSDUH Report; [cited 2016 Mar 28]. Available at http://www.samhsa.gov/data/sites/default/files/WEB_SR_088/WEB_SR_088/WEB_SR_088.htm.
- 173 CDC. Tobacco Brand Preferences Fact Sheet; [cited 2016 Mar 28]. Available at http://www.cdc.gov/tobacco/data_statistics/fact_sheets/tobacco_industry/brand_preference/.
- 174 Trefis Team. 2015. What does the Reynolds-lorillard deal mean for Altria? Forbes; [cited 2016 Mar 28]. Available at <http://www.forbes.com/sites/greatspeculations/2015/05/12/what-does-the-reynolds-lorillard-deal-mean-for-altria/#5f3a39556c54>.
- 175 Kreslake et al. The menthol smoker: tobacco industry research on consumer sensory perception of menthol cigarettes and its role in smoking behavior. *Nicotine Tobacco & Research*. 2008;10:705–15.
- 176 Yerger et al. Menthol sensory qualities and smoking topography: a review of tobacco industry documents. *Tobacco Control*. 2011; 20(2):ii37–ii43.
- 177 Kreslake et al. The menthol smoker: tobacco industry research on consumer sensory perception of menthol cigarettes and in smoking behavior. *Nicotine Tob Res*. 2008;10(4): 705-15.
- 178 Wayne et al. Assessing internal tobacco industry knowledge of the neurobiology of tobacco dependence. *Nicotine Tob Res*. 2004;6(6): 927-940.
- 179 Hersey et al. Are menthol cigarettes a starter product for youth? *Nicotine Tob Res*. 2006;8(3):403-13.
- 180 Kreslake et al. Tobacco industry control of menthol in cigarettes and targeting of adolescents and young adults. *Am J Public Health*. 2008;98(9):1685–1692.
- 181 Ahijevych K, Garrett BE. Menthol pharmacology and its potential impact on cigarette smoking behavior. *Nicotine Tob Res*. 2004;6(1):S17–S28.
- 182 Collins CC, Moolchan ET. Shorter time to first cigarette of the day in menthol adolescent cigarette smokers. *Addict Behav*. 2006;31(8):1460–1464.
- 183 Giovino et al. Differential trends in cigarette smoking in the USA: is menthol slowing progress? *Tob Control*. 2015;24:28-37.
- 184 *Ibid*.
- 185 TPSAC (2011).
- 186 Hickman et al., Menthol use among smokers with psychological distress: findings from the 2008 and 2009 National Survey on Drug Use and Health. *Tob Control*. 2014; 23(1): 7–13.
- 187 Cohn et al. Menthol tobacco use is correlated with mental health symptoms in a national sample of young adults: implications for future health risks and policy recommendations. *Tobacco Induced Diseases*. 2016;14:1.
- 188 Hersey et al. 2010. Menthol cigarettes, saliva cotinine, and nicotine dependence in adolescents. *Report for the Food and Drug Administration Center for Tobacco Products*; [cited 2016 Mar 28]. Available at <http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM237553.pdf>.
- 189 Hersey et al. Are menthol cigarettes a starter product for youth? *Nicotine Tob Res*. 2006;8(3), 403-413.
- 190 Fagan et al. Nicotine dependence and quitting behaviors among menthol and non-menthol smokers with similar consumptive patterns. *Addiction*. 2010;105(1): 55-74.
- 191 TPSAC (2011).
- 192 Okuyemi et al. Relationship between menthol cigarettes and smoking cessation among African American light smokers. *Addiction*. 2007;102(12).
- 193 Okuyemi et al. African-American menthol and nonmenthol smokers: differences in smoking and cessation experiences. *Journal of the National Medical Association*. 2004;96(9), 1208-1211.
- 194 Harris et al. Predictors of smoking cessation among African-Americans enrolled in a randomized controlled trial of bupropion. *Prev Med*. 2004;38(4), 498-502.
- 195 Stahre et al. Racial/ethnic differences in menthol cigarette smoking, population quit ratios and utilization of evidence-based tobacco cessation treatments. *Addiction*. 2010;105(1):75-83.
- 196 TPSAC (2011).

- 197 *Ibid.*
- 198 *Ibid.*
- 199 Kreslake et al. Tobacco Industry Knowledge of the Role of Menthol in Chemosensory Perception of Tobacco Smoke. *Nicotine & Tobacco Research*. 2010;12(2):S98-S101.
- 200 Garten et al., Continual smoking of mentholated cigarettes may mask the early warning symptoms of respiratory disease. *Preventive Medicine*. 2003;37(4):291-296.
- 201 Clark et al. Effect of Menthol Cigarettes on Biochemical Markers of Smoke Exposure Among Black and White Smokers. 1996;110(5): 194-8.
- 202 Caraballo R. Racial and ethnic differences in serum cotinine levels of cigarette smokers: The National Health and Nutrition Examination Survey, 1998-1991. *Journal of the American Medical Association*. 1998;280(2):135-9.
- 203 TPSAC (2011).
- 204 Vozoris NT. Mentholated Cigarettes and Cardiovascular and Pulmonary Diseases: A Population-Based Study. *Arch Intern Med*. 2012;172(7):590-593.
- 205 CDPH, Changing Landscape Countering New Threats (2015).
- 206 Ambrose et al (2015).
- 207 Villanti et al. Flavored Tobacco Product Use Among U.S. Young Adults. *American Journal of Preventive Medicine*. 2013;44(4):388-391.
- 208 Giovino et al. Differential trends in cigarette smoking in the USA: is menthol slowing progress? *Tobacco Control*, 2015;24(1):28-37.
- 209 SAMHSA. The NSDUH report: Use of menthol cigarettes.(2009).
- 210 King, et al (2013).
- 211 Lee YO, Glantz SA. Menthol: putting the pieces together. *Tob Control*. 2011;20:ii1-ii7 doi:10.1136/tc.2011.043604.
- 212 Kostygina, et al. Tobacco industry use of flavours to recruit new users of little cigars and cigarillos. *Tobacco Control*. 2014;25:66-74.
- 213 Hook et al. Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014. *Journal of the American Medical Association*. 2015;314(17):1871-1873.
- 214 U.S. Department of Health and Human Services, Preventing tobacco use among youth and young adults: a report of the Surgeon General. Atlanta, GA: US Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2012.
- 215 FDA. Flavored Tobacco Products Fact Sheet (2011).
- 216 U.S. Department of Health and Human Services, Preventing tobacco use among youth and young adults: a report of the Surgeon General. Atlanta, GA: US Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2012.
- 217 King et al. Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students. *Journal of Adolescent Health*. 2014;54(1):40-46.
- 218 Nonnemaker, J., et al., Initiation with menthol cigarettes and youth smoking uptake. *Addiction*, 2013. 108(1): p. 171-178.
- 219 El-Toukhy S, Choi K. A risk-continuum categorization of product use among U.S. youth tobacco users. *Nicotine Tob Res*. 2016.
- 220 DHHS. 2014. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General; [cited 2016 Mar 28]. Available at <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/>.
- 221 Carpenter et al. New Cigarette Brands with Flavors That Appeal to Youth: Tobacco Marketing Strategies. *Health Affairs*. 2005;24(6):1601-1610.
- 222 Report from R.M. Manko Assoc. to Lorillard Tobacco Co. (Aug. 1978), available at <http://tobaccodocuments.org/lor/85093450-3480.html?pattern=85093450-3480#images>.
- 223 Brown et al. Candy flavorings in tobacco. *New England Journal of Medicine*. 2014;370(23):2250-2252.
- 224 *Ibid.*
- 225 Oregon Public Health Division. Flavored Tobacco: Sweet, Cheap, and Within Kids' Reach.CD Summary. 2014;63(21).

- 226 Campaign for Tobacco Free Kids (2016).
- 227 Campaign for Tobacco-Free Kids. 2015. Tobacco Company Marketing to African-Americans; [cited 2016 Mar 28]. Available at www.tobaccofreekids.org/research/factsheets/pdf/0208.pdf.
- 228 Wackowski et al. Young Adults' Risk Perceptions of Various Tobacco Products Relative to Cigarettes: Results From the National Young Adult Health Survey. *Health Education & Behavior*. 2015.
- 229 TPSAC (2011).
- 230 Cullen et al. Seven-year patterns in US cigar use epidemiology among young adults aged 18–25 years: a focus on race/ethnicity and brand. *American Journal of Public Health*. 2011;101(10): 1955-1962.
- 231 Levanthal et al. Association of Electronic Cigarette Use With Initiation of Combustible Tobacco Product Smoking in Early Adolescence. *Journal of the American Medical Association*. 2015;314(7):700-707.
- 232 Willis et al. Longitudinal study of e-cigarette use and onset of smoking among high schools students in Hawaii. *Tob Control*. 2016.
- 233 TPSAC (2011).
- 234 DDHS (1998).
- 235 CDC. 2013. Deaths: Final Data for 2013, Table 13. National Vital Statistics Reports. Atlanta: Centers for Disease Control and Prevention, National Center for Health Statistics.
- 236 DDHS (1998).
- 237 Pearson et al. Modeling the future effects of a menthol ban on smoking prevalence and smoking-attributable deaths in the United States. *American Journal of Public Health*. 2011;101(7): p. 1236.
- 238 Caraballo RS, Asman K. Epidemiology of menthol cigarette use in the United States. *Tob Induc Dis*. 2011;9(1): S1.
- 239 Appleyard J, Messeri P, Haviland ML. Smoking among Asian American and Hawaiian/Pacific Islander youth: data from the 2000 National Youth Tobacco Survey. *Asian Am Pac Isl J Health*. 2001;9(1):5–14.
- 240 Gundersen DA, Delnevo CD, Wackowski O. Exploring the relationship between race/ethnicity, menthol smoking, and cessation, in a nationally representative sample of adults. *Prev Med*. 2009;49:533–57.
- 241 Gardiner P, Clark PI. Menthol cigarettes: moving toward a broader definition of harm. *Nicotine & Tobacco Research*. 2010;12:85-93.
- 242 Trinidad et al. Menthol cigarettes and smoking cessation among racial/ethnic groups in the United States. *Addiction*. 2010; 105(0 1): 84–94.
- 243 Gandhi KK, Foulds J, Steinberg MB, Lu SE, Williams JM. Lower quit rates among African American and Latino menthol cigarette smokers at a tobacco treatment clinic. *Int J Clin Pract*. 2009;63:360–7.
- 244 U.S. Department of Health and Human Services, Preventing tobacco use among youth and young adults: a report of the Surgeon General. Atlanta, GA: US Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2012.
- 245 White VM, White MM, Freeman K. Cigarette promotional offers: who takes advantage? *Am J Prev Med* 2006; 30:225–231.
- 246 Gardiner PS. The African Americanization of menthol cigarette use in the United States. *Nicotine Tob Res*. 2004;6:S55–65.
- 247 Lee et al. A Systematic Review of Neighborhood Disparities in Point-of-Sale Tobacco Marketing. *American Journal of Public Health*. 2015;105(9):e8-18.
- 248 Iglesias-Rios L, Parascandola, M. A Historical Review of R.J. Reynolds' Strategies for Marketing.
- 249 Tobacco to Hispanics in the United States. *American Journal of Public Health*. 2013;103(5):e15-e27.
- 250 Altman DG, Schooler C, Basil MD. Alcohol and cigarette advertising on billboards. *Health Education Research*. 1991;6(4):487–490.
- 251 APPEAL for Communities. 2014 Tobacco and Health in Asian American, Native Hawaiian and Pacific Islander Communities in California; [cited 2016 Mar 28]. Available at http://www.appealforcommunities.org/wp-content/uploads/2014/06/4285_APPEALfactsheet_ENG_final.pdf.
- 252 Muggli ME, Pollay RW, Lew R, Joseph AM. Targeting of Asian Americans and Pacific Islanders by the tobacco industry: results from the Minnesota Tobacco Document Depository. *Tobacco Control*. 2002;11:201-209.

- 253 American Cancer Society. Tobacco and the GLBT Community. Available at <http://www.glbthealth.org/documents/GLBTobacco>
- 254 King, et al (2013).
- 255 Lee JG, Griffin GK, Melvin CL. Tobacco use among sexual minorities in the USA, 1987 to May 2007: a systematic review. *Tob Control*. 2009;18(4):275–282.
- 256 National Youth Advocacy Coalition, Coming Out about Smoking: A Report from the National LGBTQ Young Adult Tobacco Project 2010: Washington, DC.
- 257 Fallin, A. Menthol Cigarette Smoking among Lesbian, Gay, Bisexual, and Transgender Adults. *American Journal of Preventative Medicine*. 2014;8(1),93-97.
- 258 King, et al (2013).
- 259 Hagopian, A. 2015. E-cigarettes: Evidence and policy options for Washington State. Seattle, WA: University of Washington, WA Department of Health Services.
- 260 Jordan JN, McElroy JA, Everett KD. Smoking Initiation, Tobacco Product Use, and Secondhand Smoke Exposure Among General Population and Sexual Minority Youth, Missouri, 2011–2012. *Prev Chronic Dis*. 2014;11:140037.
- 261 Rosario et al. Sexual orientation disparities in cancer related risk behaviors of tobacco, alcohol, sexual behaviors, and diet and physical activity: pooled youth risk behavior surveys. *Am J Public Health*. 2014;104(2):245–54.
- 262 CDC. Current Cigarette Smoking Among Adults—United States, 2005-2014. *Morbidity and Mortality Weekly Report*. 2015;64(44):1233-1240.
- 263 TPSAC (2011).
- 264 Rosenbloom et al. A cross-sectional study on tobacco use and dependence among women: Does menthol matter? *Tobacco Induced Diseases*. 2012;10(1):19.
- 265 Ahijevych K, Parsley LA. Smoke constituent exposure and stage of change in black and white women cigarette smokers. *Addict Behav*. 1999;24:115–120.
- 266 Carpenter CM, Wayne GF, Connolly GN. Designing cigarettes for women: new findings from the tobacco industry documents. *Addiction*. 2005;100(6):837-851.
- 267 Tobacco Education and Research Oversight Committee. 2015. Changing Landscape Countering New Threats. Master Plan; [cited 2016 Mar 28]. Available at http://www.cdph.ca.gov/programs/tobacco/Documents/TEROC/Master%20Plan/MasterPlan_15-17.pdf.
- 268 California Department of Public Health, California Tobacco Control Program. About the tobacco control program. Sacramento, CA. 2012. Accessed at: <http://www.cdph.ca.gov/programs/tobacco/Documents/Archived%20Files/Making%20a%20Difference%2012012.pdf>.
- 269 Lightwood J, Glantz S. The effect of the California tobacco control program on smoking prevalence, cigarette consumption, and healthcare costs: 1989-2008. *PLoS One*. 2013;8(2):e47145.
- 270 CDC. National Health Report Highlights; [cited 2016 Mar 28]. Available at: <http://www.cdc.gov/healthreport/publications/compendium.pdf>.
- 271 FDA (2011).

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Alameda Ordinance No. 3230	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: November 27, 2018 Effective: July 1, 2019 Enforced: July 1, 2019	None	No TRLs may be issued to a pharmacy No TRLs may be issued within 300 feet of a youth populated area No TRL’s may be issued within 500 feet of another tobacco retailer The total number of TRLs within the city shall be limited to one for each 2,500 inhabitants of the city No tobacco retailers shall honor or redeem a coupon to allow a consumer to purchase a tobacco product for less than full price, sell a tobacco product through a multi-package discount, provide free or discounted items, or sell a tobacco product for less than full retail price Cigars and little cigars must be sold in packages of at least five Sets a minimum price of \$7 per package of cigarettes and \$5 for cigars	The City’s Planning, Building and transportation Department or any other City department shall inspect each tobacco retailers for compliance A violation of the provisions of this chapter within any five-year period may result in: <div><div>1.</div><div>A fine of \$1500 for a first violation</div></div> <div><div>2.</div><div>A 15 day suspension of the tobacco retail license for a second violation</div></div> <div><div>3.</div><div>A 30 day suspension of the tobacco retail license for a third violation</div></div> <div><div>4.</div><div>A license will be revoked for a fourth violation</div></div>	No
Albany Ordinance No. 2019-04	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: April 15, 2019 Effective: October 16, 2019	None	None	The City of Albany Police Department is responsible for enforcing this ordinance A tobacco retailer’s license shall be revoked if the licensee is found to have violated any of the provisions of this chapter After revocation at a location within any 60-month period: <div><div>1.</div><div>No new license may be issued at a location for 30 days after a first violation</div></div> <div><div>2.</div><div>No new license may be issued at a location for 90 days after a second violation and the retailer will be subject to a \$250 fine</div></div> <div><div>3.</div><div>No new license may be issued at a location for one year after a third violation and the retailer will be subject to a \$500 fine</div></div> <div><div>4.</div><div>No new license may be issued at a location for five years after four or more violations and the retailer will be subject to a \$1000 fine</div></div>	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Berkeley Ordinance No. 7,441-N.S. Municipal Code Chapter 9.80	Prohibits the sale of flavored tobacco products, including menthol flavored tobacco products, within a 600 foot buffer zone of a school (public and private K-12 with at least 25 students enrolled)	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: September 2015 Effective: January 1, 2017 Enforced: January 1, 2020	Only applies to retailers located within 600 feet of schools Medical cannabis dispensaries are not required to have a tobacco retail license to sell electronic smoking devices or other tobacco paraphernalia if not accompanied by any tobacco product	No new TRL may be issued to a pharmacy or renewed by a pharmacy No new TRLs may be issued within 600 feet of school	Environmental Health staff is responsible for enforcement A violation of the provisions of this chapter within any five-year period may result in: <ol style="list-style-type: none">1. The suspension of a license for up to 30 days for a first violation2. The suspension of a license for up to 90 days for a second violation3. The suspension of a license for up to one year for a third violation4. The revocation of a license upon the fourth violation	Grace period of 3 years of effective date for retailers with “good cause showing”
Beverly Hills Ordinance No. 18-2758 Municipal Code Chapter 4-2-21	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: August 21, 2018 Effective: September 21, 2018 Enforced: December 21, 2018	None	The flavors policy is enforced through a TRL that must be paid annually	A violation of the provisions of this chapter will result in: <ol style="list-style-type: none">1. A civil penalty fine of \$250 for a first violation within any five year period2. The suspension of the TRL for 90 days and a civil penalty fine of \$750 for a second violation within a five year period3. The revocation of the TRL and a civil penalty fine of \$1,000 for a third violation within a five year period	No
Cloverdale Municipal Code Chapter 8.08	Prohibits the sale of all flavored tobacco products, with the exception of menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes (excluding menthol flavored tobacco products)	No	Adopted: December 12, 2017	Menthol tobacco products, including cigarettes, are not included in the restrictions	Smoking (including tobacco and marijuana) is prohibited in enclosed places of employment, public places, sports arenas, and multi-unit residence common areas; and unenclosed places of employment, recreational areas, service areas, outdoor dining areas, public places, and multifamily residence common areas No tobacco retailers shall sell any single cigar or any package of cigars containing fewer than five cigars (does not apply to the sale of single cigars if the price exceeds \$5) Pharmacies may not sell tobacco products	Any person or business that violates the provisions of this chapter shall be guilty of an infraction, publishable by: <ol style="list-style-type: none">1. A fine not exceeding \$100 for a first violation2. A fine not exceeding \$200 for a second violation within one year3. A fine not exceeding \$500 for each additional violation within five years	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Contra Costa County Ordinance No. 2017-01 Municipal Code Chapter 445-2	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within 1,000 feet of schools (public and private), parks, playgrounds and libraries in the unincorporated areas of the county	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: July 18, 2017 Effective: August 1, 2017 Enforced: January 1, 2018	Only applies to retailers within 1,000 feet of schools, parks, playgrounds and libraries	No new tobacco retail licenses may be issued in pharmacies Little cigars must be sold in packs of at least 10, and cigarillos must be sold in packs of at least 10 unless the sales price of one cigar is over \$5 No new tobacco retail licenses will be granted to businesses located within 1,000 feet of schools, parks playgrounds or libraries, or within 500 feet of another business that sells tobacco Sets a cap on the total number of tobacco retailers Prohibits the redemption of coupons or redemptions Smoking is prohibited in specified enclosed and unenclosed areas and in all multi-unit residence areas, with some exceptions	A violation of the provisions of this chapter will result in: <ol style="list-style-type: none">1. The suspension of the TRL for up to 30 days for a first violation2. The suspension of the TRL for up to 90 days for a second violation that occurs within five years after the first violation3. The suspension of the TRL for up to one year for a third violation and for each subsequent violation that occurs within five years after the first violation	No
Corte Madera Ordinance No. 983	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: March 19, 2019 Effective: April 18, 2019 Enforced: January 1, 2020	None	Prohibits the sale of: <ol style="list-style-type: none">1. any single cigar ,whether or not packaged for individual sale2. any number of cigars fewer than then number contained in the manufacturer’s original consumer packaging designed for retail sale3. any package of cigars containing fewer than five cigars (this does not apply to the sale of a single cigar for which the retail price exceeds \$5) No new tobacco retail licenses may be issued in pharmacies	Compliance is monitored by the Town Manager Any peace officer may enforce the penal provisions of the policy. A violation of the provisions of this chapter will result in: <ol style="list-style-type: none">1. The issuance of a warning for a first violation2. The suspension of the license for 30 days for a second violation within a 60-month period3. The suspension of the license for 90 days for a third violation within a 60-month period4. The suspension of the license for one year for a fourth violation within a 60-month period5. The revocation of a license for five or more violations within a 60-month period	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jursidiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
El Cerrito Ordinance No. 2015-08 Municipal Code 6.100.160	Prohibits the sale of all flavored, non-cigarette tobacco products, including menthol flavored non-cigarette tobacco products, within the city limits	All flavored non-cigarette tobacco products, including e-cigarettes and menthol non-cigarette tobacco products (excludes menthol cigarettes)	Yes (only for non-cigarette tobacco products)	Adopted: October 2015 Effective: January 1, 2016 Enforced: October 2017	Menthol cigarettes are not included in the restrictions	<p>No new licenses may be issued to authorize tobacco retailing within 500 feet of schools, youth sensitive locations (parks and playgrounds, libraries), residential zones, or other tobacco retailers (tobacco retailers already in operation are exempt)</p> <p>No new licenses may be issued to authorize tobacco retailing within 1,000 feet of another tobacco retailer (tobacco retailers already in operation are exempt)</p> <p>Single cigar sales prohibited (except single cigars over \$5), a package of cigars must have at least five cigars</p> <p>Tobacco samples & coupons prohibited (except as allowed in adult-only businesses per state and federal law)</p> <p>Hookah lounges, cigar lounges, vape shops, or similar establishments are prohibited within the city limits</p> <p>New tobacco retailers may not operate as a “Significant Tobacco Retail Establishment” (use over 20% of the store display area for or derive over 50% of gross sales receipts from tobacco products or smoking paraphernalia) (existing tobacco retailers may seek an exception)</p> <p>Imitation tobacco products also included in prohibition</p>	<p>Compliance is monitored and enforced by the City’s Community Development Department, in conjunction with the El Cerrito Police Department</p> <p>A violation of the provisions of this chapter within a five year period will result in the suspension of a license for:</p> <ol style="list-style-type: none">1. 10 days for first violation2. 30 days for second violation3. 60 days for third violation4. Upon the fourth or more violations the license shall be revoked	Existing establishments within a certain distance of schools, youth sensitive areas and other tobacco retailers are allowed to continue to sell flavored tobacco products until January 1, 2018 but they must comply with all other TRL requirements
Fairfax Municipal Code 8.44.210	Prohibits the sale of all flavored tobacco products, with the exception of menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes (excludes menthol flavored tobacco products)	No	Adopted: December 6, 2017 Effective: December 6, 2018 Enforced: January 1, 2019	Tobacco retailers may sell flavored tobacco products if the tobacco product: <ol style="list-style-type: none">1. Consists of a package of cigars containing at least five cigars or more2. Consists of a single cigar for which the retail price exceeds \$53. Consists of pipe tobacco4. Consists of a package of chewing tobacco or snuff containing at least five units or more	<p>It shall be a violation to sell, offer for sale, or exchange for any form of consideration:</p> <ol style="list-style-type: none">1. Any single cigar, whether or not packaged for individual sale2. Any number of cigars fewer than the number contained in the manufacturer's original consumer packaging designed for retail sale to a consumer3. Any package of cigars containing fewer than five cigars <p>*(This does not apply to the sale or offer for sale of a single cigar for which the retail price exceeds \$5)</p> <p>Prohibits the sale of tobacco products in pharmacies</p>	<p>Regulations shall be monitored by the Town Manger and the Marin County Tobacco Program</p> <p>A violation of the provisions of this chapter within any 60-month period may result in:</p> <ol style="list-style-type: none">1. A 30 day suspension of a license for a first violation of this article2. A 90 day suspension of a license for a second violation of this article3. A one year suspension for a third violation of this article	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Half Moon Bay Municipal Code Section 7.60.120	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: October 2018 Effective: April 1, 2019	None	No tobacco retail permits may be issued to new or existing pharmacies (this provision effective April 1, 2019) No tobacco may be sold from a vending machine No person shall distribute free tobacco products or coupons for tobacco products	The ordinance will be enforced by the county of San Mateo, its officers, employees and agents A violation of the provisions of this chapter may result in: <ol style="list-style-type: none">1. A suspension of the license for up to 30 days for the first violation2. A suspension of the license for no less than 30 days and up to 90 days for the second violation of the ordinance within 24 months of the first determination3. A suspension of the license for no less than 90 days and up to one year for the third and each subsequent violation of the ordinance within 24 months of a prior determination	No
Hayward Municipal Code Sec. 10-1.2780	Prohibits the sale of flavored tobacco products with the exception of menthol flavored cigarettes within a 500-foot radius of schools (public and private kindergarten, elementary, middle, junior high or high school) for <i>new</i> tobacco retailers (established after the passage of this policy) within the city limits	All flavored non-cigarette tobacco products, including e-cigarettes and menthol non-cigarette tobacco products (excludes menthol cigarettes)	Yes (only for non-cigarette tobacco products)	Adopted: July 1, 2014 Effective: August 1, 2014	Menthol cigarettes are not included in restrictions Retailers that sold products before provisions took effect are exempt Restrictions only apply to retailers within 500 feet of schools	Prohibits the sale of cigar packages containing fewer than 5 cigars or a single cigar (unless the retail price exceeds \$5) No new tobacco retailers or new sales of flavored tobacco within 500 feet of a public or private K-12 school Vapor bars, lounges, smoking device bars, electronic smoking device lounges, and hookah bars and lounges are prohibited in all zoning districts Imitation tobacco products also included in prohibition	Regulations are enforced by the City’s Planning Director, in conjunction with the City’s Code Enforcement Division and the Hayward Police Department Any Tobacco Retail Sales Establishment that violates regulations in ordinance three times within a three-year period shall be subject to revocation of its tobacco retail license and/or its conditional use permit	Retailers selling flavored tobacco products prior to the ordinance effective date are exempt
Hermosa Beach Ordinance No. 18-1389	Limits the sale of flavored tobacco products, including menthol flavored tobacco products, to adult-only tobacco stores within the city limits	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: January 8, 2019 Effective: June 1, 2019	Flavored tobacco products may still be sold in stores that permits only patrons 21 years of age or older to enter	Tobacco retailers must be located at least 500 feet from a youth-populated area No license may be issued to authorize tobacco retail licensing at farmers’ markets, special temporary events, or mobile carts A TRL may not be issued to a pharmacy No TRL may be issued for businesses licensed to serve alcohol Minimum pack size requirement of 20 for little cigars	Compliance checks shall be conducted by any member of the Hermosa Beach Code Enforcement Department, Police Department, the California Department of Health Services, the California Alcohol Beverage Control Department, and the Los Angeles County Sheriff’s Department, or their designees Tobacco Retailer’s license shall be suspended or revoked for a violation of any provision of this chapter	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Larkspur Ordinance No. 1037	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: April 3, 2019 Effective: May 3, 2019 Enforced: January 1, 2020	None	Establishes a minimum pack size of five for cigars and prohibits the sale of a single cigar or any number of cigars fewer than the number contained in the original packaging (this does not apply to the sale of a single cigar for over \$5) Prohibits the sale of tobacco products in pharmacies	Compliance will be monitored by the City Manager and the Marin County Tobacco Program Any violation of the TRL within a 60-month period may result in: 1. A warning for a first violation 2. The suspension of a license for 30 days for a second violation 3. The suspension of a license for 90 days for a third violation 4. The suspension of a license for one year for a fourth violation 5. The revocation of a license for the fifth or more violations	No
Los Gatos Ordinance No. 2259	Limits the sale of flavored tobacco products, including menthol flavored tobacco, to adult-only tobacco stores within the city limits	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: May 16, 2017 Effective: January 1, 2018	Ordinance exempts adult-only tobacco stores which generate over 60% of gross income from tobacco sales, do not allow anyone under 21, do not sell food or alcoholic beverages for consumption on the premises, and post a sign outside saying that minors are prohibited	TRL language is a replica of the Santa Clara County TRL Prohibits the sale or transfer of tobacco products to anyone under the age of 21 (no exemption for military personnel) Prohibits the sale of tobacco products in pharmacies Prohibits new tobacco retailing within 1,000 feet of a school Prohibits any new tobacco retailers within 500 feet of another tobacco retailer Limits storefront advertising to no more than 15% of the window and clear doors	Compliance will be monitored by the Town or its Designee; a peace officer may enforce the provisions in this policy Any violation of the TRL within a 12-month period may result in: 1. A fine not to exceed \$100 for a first violation 2. A fine not to exceed \$200 for a second violation 3. A fine not to exceed \$500 for each additional violation For any violation of the TRL within a 24-month period, permit suspension includes: 1. Permit suspension for up to 30 calendar days for a first violation 2. Permit suspension for up to 90 calendar days for a second violation 3. Permit suspension for up to one year for each additional violation	No
Manhattan Beach Ordinance No. 15-0020 Municipal Code 4.118.030	Limits the sale of flavored tobacco, with the exception of menthol flavored tobacco products, to adult-only tobacco stores with the city limits	All flavored tobacco products (excludes menthol flavored tobacco products)	No	Adopted: December 2015 Effective: January 1, 2016	Flavored tobacco products may still be sold in adult-only tobacco stores Menthol tobacco products are not included in the prohibition	No tobacco retailer permit may be issued within 500 feet of a school or an existing retailer	The retail permit may be revoked or suspended for two or more violations within a 36-month period	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Marin County Ordinance No. 3698	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the unincorporated areas of the county	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: November 6, 2018 Effective: December 5, 2018 Enforced: July 1, 2019 (Non-Tobacco Stores) July 1, 2020 (Tobacco Stores)	None	It is unlawful for any retailer, individual, or entity to sell or offer for sale any tobacco products in the unincorporated area of the county without first obtaining and maintaining a valid tobacco retailer's license from the County of Marin for each location where these sales are conducted	Enforcement shall be conducted by the Marin County Dept. of Health and Human Services A violation of the provisions of this chapter may result in: <ol style="list-style-type: none">1. An administrative citation and fine not less than \$200 for a first violation2. An administrative citation and fine not less than \$500/violation for subsequent violations	No
Mono County Ordinance No. 18-03 Municipal Code 7.92.070	Prohibits the sale of all flavored e-liquids, including menthol flavored e-liquids, within the unincorporated areas of the county	All flavored e-liquids (excludes all other flavored tobacco products)	Yes (only for menthol-flavored e-liquids)	Adopted: April 17, 2018 Effective: May 17, 2018	Does not include flavored tobacco products other than e-liquids	Prohibits smoking in all areas where smoking is prohibited by state or federal law, as well as county vehicles, public parks recreational areas, service areas, dining areas and public places when used for a public event Smoking may not occur closer than 20 feet outside any enclosed area and from entrances, windows, or ventilation systems * Limited flavored e-liquid sales policy is set to sunset in October 2019 and a complete ban on all flavored tobacco and menthol products will become effective Policy is not attached to a TRL	The Mono County Public Health Director or his/her designee is authorized to enforce this ordinance and to refer enforcement to the Mono County Code Compliance Division Any person or business found in violation of any provision of this Chapter shall be guilty of an infraction and subject to a fine of: <ol style="list-style-type: none">1. \$100 for the first violation2. \$200 for the second violation3. \$500 for any subsequent violation	No
Novato Ordinance No. 1615 Municipal Code 7-8	Prohibits the sale of all flavored tobacco products, with the exception of menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes and marijuana (excludes menthol flavored tobacco products)	No	Adopted: January 31, 2017 Effective: January 1, 2018 Enforced: January 1, 2019	Menthol tobacco products are not included in the prohibition Flavored tobacco products may be sold if the product is: <ol style="list-style-type: none">1. a package of cigars containing at least five cigars2. a single cigar for which the retail price exceeds five dollars3. pipe tobacco4. a package of chewing tobacco or snuff containing at least five units or more	Minimum pack size requirements prohibit the sale of: <ol style="list-style-type: none">1. A single cigar (unless the price of the single cigar exceeds \$5)2. A package of cigars containing fewer than five cigars, or any number of cigars fewer than the number contained in the manufacturer's original consumer packaging designed for retail sale to a consumer No pharmacies may sell tobacco products	Compliance will be monitored by the Department or other designated agency Any violation of this chapter within a 60-month period may result in: <ol style="list-style-type: none">1. A warning for a first violation2. The suspension of a license for 30 days for a second violation3. The suspension of a license for 90 days for a third violation4. The suspension of a license for one year for a fourth violation5. The revocation of a license for the fifth or more violations	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Oakland Municipal Code 5.91	Limits the sale of flavored tobacco products, including menthol flavored tobacco products, to adult-only tobacco stores within the city limits	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: September 19, 2017 Effective: July 1, 2018	Flavored tobacco products may still be sold in adult-only tobacco stores which generate over 60% of gross income from tobacco sales and tobacco paraphernalia, do not allow minors under the age of 18 unless accompanied by a parent or legal guardian, and do not sell food or alcoholic beverages	An amendment allows clerks aged 18 and older to sell tobacco Tobacco retailers may not sell tobacco products at a discount less than full retail price, including honoring or redeeming coupons	The City designates the Oakland Police Department to enforce this Ordinance A violation of this Chapter at a location within any 60-month period may result in: <div><div>1.</div><div>An agreement to stop acting as a Tobacco Retailer for at least one day and a settlement payment to the City of at least \$1,000 for a first violation</div></div> <div><div>2.</div><div>An agreement to stop acting as a Tobacco Retailer for at least ten days and a settlement payment to the City of at least \$5,000 for a second violation</div></div> <div><div>3.</div><div>No new license may be issued until five years have passed from the date of the violation for a third or subsequent violation</div></div>	No
Palo Alto Ordinance No. 5418 Municipal Code 4.64.030	Limits the sale of flavored tobacco products, including menthol flavored tobacco products, to adult-only tobacco stores within the city limits	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: October 2, 2017 Effective: January 1, 2019	Ordinance exempts adult-only tobacco stores which generate over 60% of gross income from tobacco sales and tobacco paraphernalia, do not allow anyone under 21, do not sell food or alcoholic beverages for consumption on the premises, and post a sign outside saying that minors are prohibited	TRL language is a replica of the Santa Clara County TRL Prohibits the sale or transfer of tobacco products to anyone under the age of 21 (no exemption for military personnel) Prohibits the sale of tobacco products in pharmacies Prohibits new tobacco retailing within 1,000 feet of a school Prohibits any new tobacco retailers within 500 feet of another tobacco retailer	Compliance will be monitored by the City or its Designee, and any peace officer may enforce the penal provisions of the ordinance A violation of the provisions of this chapter may result in: <div><div>1.</div><div>A fine not to exceed \$100 (within a 12-month period) and a suspension up to 30 days (within any 24-month period) for a first violation</div></div> <div><div>2.</div><div>A fine not to exceed \$200 (within a 12-month period) and a suspension of the retailer permit for up to 90 days (within any 24-month period) for a second violation</div></div> <div><div>3.</div><div>A fine not to exceed \$500 (within a 12-month period) and the suspension of the retailer permit for up to one year (within any 24-month period) for each additional violation</div></div>	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Portola Valley Ordinance No. 2018-425	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: September 12, 2018 Effective: October 11, 2018 January 1, 2019	None	No existing or new pharmacies may sell tobacco products	Compliance monitored will be conducted through the Environmental Health Division of San Mateo County Health Department Penalties for violation of this ordinance include: <div><div>1.</div><div>A suspension of the TRL for up to 30 days and a fine not exceeding \$100 for the first violation</div></div> <div><div>2.</div><div>A suspension of the TRL for no less than 30 days and up to 90 days and a fine not exceeding \$200 for the second violation within 24 months of the first violation</div></div> <div><div>3.</div><div>A suspension of no less than 90 days and up to one year of the TRL and a fine not exceeding \$500 for the third violation and subsequent violations</div></div>	None
Richmond Ordinance No. 20-18 N.S. Municipal Code 7.106	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes and menthol tobacco products	Yes	Adopted: July 17, 2018 Effective: April 17, 2019	None	The ordinance establishes a minimum pack-size of 20 cigars and cigarillos, except for cigars that sell for more than \$5 each, and prohibits the sale of any single little cigar or cigar Prohibits new tobacco retailers from opening within 500 feet of existing tobacco retailers and 1,000 feet from a school, park, playground or library	Compliance will be monitored by the Richmond Police Department A tobacco retail license shall be revoked if the licensee, or any of the licensee’s agents or employees, has violated any of the requirements, conditions, or prohibitions in the municipal code. The enforcement agency may also enforce through administrative fines	Existing tobacco retailers not in line with the distance requirement for tobacco retailers from schools and other tobacco retailers are grandfathered in unless the business changes ownership
Sacramento Ordinance No. 2019-0012	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes and menthol tobacco products	Yes	Adopted: April 16, 2019 Effective: January 1, 2020	None	No new tobacco retail licenses shall be issued or existing licenses renewed to authorize tobacco retailing within 1,000 feet of another tobacco retailer	Penalties for violation of ordinance within a 5 year period include: <div><div>1.</div><div>The suspension of a license for 30 days for a first violation</div></div> <div><div>2.</div><div>The suspension of a license for 90 days for a second violation</div></div> <div><div>3.</div><div>The revocation of a license for a third violation</div></div> Any person violating the provisions of this chapter shall also be liable for civil penalties of not less than \$250 or more than \$25,000 for each day the violation continues	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
San Carlos Ordinance No. 1544	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes and menthol tobacco products	Yes	Adopted: April 8, 2019 Effective: May 8, 2019	None	No existing or new pharmacies may sell tobacco products Flavor Policy is not tied to a TRL	The City Manager or designee may enforce this chapter.	No
San Francisco Ordinance No. 140-17	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the county limits	All flavored tobacco products, including e-cigarettes and menthol tobacco products	Yes	Adopted: June 27, 2017 Referendum Vote: June 5, 2018 Effective: July 20, 2018 Enforced: January 1, 2019	None	No new permit shall be issued in any supervisorial district that has 45 or more Establishments with Tobacco Sales permits No new permit shall be issued if the Applicant will be within 500 feet of the nearest point of the property line of a school No new permit shall be issued if the Applicant will be located within 500 feet of the nearest point of the property line of an existing tobacco retailer	Compliance will be monitored through the Director of Health or his or her designee For a violation of the ordinance, the Director of Health may suspend a Tobacco Sales Permit: <div><div>1.</div><div>For a maximum of 90 days of the first violation</div><div>2.</div><div>For a maximum of six months for a second violation that occurs within the first 12 months of the first violation</div><div>3.</div><div>For a maximum of one year for a third violation if within 12 months of the prior violation</div></div>	No
San Leandro Municipal Code 4-36	Prohibits the sale of all flavored tobacco products, with the exception of menthol flavored tobacco products, within the city limits (including flavored products that do not contain nicotine)	All flavored tobacco products, including e-cigarettes (excluding menthol tobacco products)	No	Adopted: October 16, 2017 Effective: August 15, 2018	Menthol tobacco products are not included in the prohibition Wholesale companies are excluded from the ordinance if the tobacco products made or distributed in San Leandro are sold by retailers outside the city	No tobacco retailer shall sell, offer for sale, or exchange any <div><div>1.</div><div>Single cigar</div><div>2.</div><div>Any pack of cigars at a price that is less than \$7.00 per five cigars (does not apply to the sale or offer for sale of a single cigar for which the retail price exceeds either five dollars or the dollar amount adopted by resolution of the City Council and adjusted from time to time, whichever is higher)</div></div>	Compliance will be monitored by the San Leandro Police Department Penalties for violation of this ordinance within a 36 month period include: <div><div>1.</div><div>A written warning and 30 days to correct violation for the first violation</div><div>2.</div><div>A \$2,500 fine for a second violation</div><div>3.</div><div>A 20 day license suspension for a third violation</div><div>4.</div><div>After four or more violations, the license shall be revoked and no new license may issue for the location or tobacco retailer until three years have passed from the date of revocation</div></div>	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
San Mateo County Ordinance No. 4799 Municipal Code 7.41	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the unincorporated areas of the county	All flavored tobacco products, including e-cigarettes and menthol tobacco products	Yes	Adopted: June 19, 2018 Effective: July 19, 2018 Enforcement: January 1, 2019	None	No existing or future pharmacies may sell tobacco products	Compliance will be monitored through the Environmental Health Division of San Mateo County Health Department Penalties for violation of ordinance include: 1. A suspension of the TRL for up to 30 days and a fine not exceeding \$100 for the first violation 2. A suspension of the TRL for no less than 30 days and up to 90 days and a fine not exceeding \$200 for the second violation within 24 months of the first violation 3. A suspension of no less than 90 days and up to one year of the TRL and a fine not exceeding \$500 for the third violation and subsequent violations	No
San Pablo Ordinance No. 2018-006 Municipal Code 5.06	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes and menthol tobacco products	Yes	Adopted: December 17, 2018 Effective: March 2019	None	Requires a minimum pack size for cigars (6 per pack), cigarillos (25 per pack) and little cigars (20 per pack) Requires a minimum price of \$10.00 per cigar	Penalties for violation of ordinance within any 60-month period include: 1. A suspension of the license for up to 30 days for a first violation. At the election of the tobacco retailer, the tobacco retailer may pay a penalty of \$1000 in lieu of such suspension 2. A suspended of the license for one year for a second violation 3. The revocation of the license for and the proprietor or proprietors who had been issued the license shall never again be issued a tobacco retailer’s license pursuant to this chapter for the third and subsequent violations	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Santa Clara County Ordinance No. NS-300.883	Limits the sale of flavored tobacco products, including menthol flavored tobacco products, to adult-only tobacco stores in the unincorporated areas of the County	All flavored tobacco products, including e-cigarettes and menthol tobacco products	Yes (revised in 2016 to include menthol)	Adopted: June 2010 Effective: January 1, 2016 Revised version effective: July 1, 2017	Revised ordinance exempts adult-only tobacco stores which generate over 60% of gross income from tobacco sales and tobacco paraphernalia, do not allow minors, do not sell food or beverages, and post a sign outside saying that minors are prohibited	No TRLs may be issued to a retailer containing a pharmacy No TRLs may be issued to a retailer within 1,000 feet of a school (existing retailers exempt) No TRLs may be issued to a retailer located within 500 feet of another retailer (existing retailers exempt)	Compliance shall be monitored by the Department of Environmental Health Penalties for violations of this ordinance within a 12-month period include: 1. A fine not to exceed \$100 for the first violation within a 12-month period and a license suspension for up to 30 days within any 24-month period 2. A fine not to exceed \$200 for a second violation within a 12-month period and a license suspension for up to 90 days within any 24-month period 3. A fine not to exceed \$500 for each additional violation within a 12-month period and a license suspension for up to one year for each additional violation within any 24-month period	No
Santa Cruz Ordinance No. 2018-19 Municipal Code 6.07	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes and menthol tobacco products	Yes	Adopted: November 27, 2018 Effective: June 11, 2019 Enforced: January 1, 2020	None	No license shall be issued to authorize tobacco retailing that is within six hundred feet of a high-risk alcohol outlet No license shall be issued to authorize tobacco retailing that is within that is within one thousand feet of a school *This prohibition shall not apply to a license applicant whose application seeks authorization to conduct tobacco retailing at a location where such retailing was taking place as of January 1, 2014, and has continued without interruption at that location since May 8, 2014	Every violation of this chapter determined to be an infraction is punishable by: 1. A fine not exceeding \$100 for a first violation and a license suspension for up to 60 days 2. A fine not exceeding \$200 for a second violation and the suspension of a license for 120 days 3. A fine not exceeding \$500 for a third and each additional violation and the suspension of a license for 180 days 4. The tobacco retailer’s license shall be revoked, and no new license may be issued for the location until five years have passed from the date of revocation upon the fourth and each subsequent violation	No
Saratoga Municipal Code 4-90	Prohibits the sale of all flavored tobacco products, with the exception of menthol flavored tobacco products, within the city limits	All flavored tobacco products (excluding menthol flavored tobacco products)	No	Adopted: October 3, 2018	Menthol flavored tobacco products are not included in the policy	No tobacco retailer permit tobacco may be issued to a licensed pharmacy No tobacco retailers established after September 16, 2016 shall be granted a tobacco retailer license for a location which is within 500 feet of another retailer or within 1000 feet of an elementary, middle, or high school or a City park No tobacco product or paraphernalia may be sold from a vending machines	Penalties for violations of this ordinance within a 24 month period include: 1. The suspension of an existing license for up to 60 days from the date of the citation issuance for a first violation 2. The revocation of any existing license shall for up to 24months from the date of the administrative citation issuance for a second or subsequent citation	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Sausalito Ordinance No. 1264	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes and menthol tobacco products	Yes	Adopted: July 2018 Effective: November 1, 2018	None	Ordinance amends city’s current “Clean Indoor Air and Health Protection” municipal code chapter to add “Tobacco Retail License Requirement and Prohibit the Sale of Flavored Tobacco Products” Smoking is prohibited in all enclosed places of employment, public places, recreational areas, common areas Smoking is prohibited in all unenclosed places of employment, recreational areas, services areas, dining areas, common areas that meet certain requirements Smoking restrictions included for multi-unit housing complexes and rental units	Anyone who violates a provision in this chapter will be deemed guilty of an infraction The City may seek the revocation or suspension of a tobacco retailer’s license	No
Sonoma Ordinance No. 04-2015 Municipal Code 7.25	Prohibits the sale of all flavored tobacco products, with the exception of menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes (excluding menthol flavored tobacco products)	No	Adopted: June 1, 2015 Effective: September 1, 2015 Enforced: September 1, 2015	Menthol flavored tobacco products are not included in the policy Flavored tobacco products may still be sold if <ol style="list-style-type: none">the tobacco product consists of a package of cigars that contains at least five cigarsa single cigar for which the retail price exceeds \$5the tobacco product consists of pipe tobaccothe package of chewing tobacco or snuff contains at least five units or more	It is a violation to sell any single cigar (unless the retail price of the cigar exceeds \$5) and a package of cigars containing fewer than five cigars or the number of cigars contained in the manufacture’s original consumer packaging Limits the eligibility of retailers permitted to apply for a tobacco retail license	Decoy enforcement operations conducted annually by Sonoma Police Department Penalties for violations of this ordinance within a 60-month period include: <ol style="list-style-type: none">The suspension of a license for 30 days for a first violationThe suspension of a license for 90 days for a second violationThe suspension of a license for one year for a third violationThe revocation of a license for a fourth or subsequent violations Violations of this chapter are subject to a civil action punishable by a fine not less than \$250 and not exceeding \$1,000 per violation	No
West Hollywood Ordinance No. 16-991 Municipal Code 5.114	Prohibits the sale of all tobacco products, including flavored tobacco products and menthol flavored tobacco products, within 600 feet of a youth-populated area (school, youth center, child-care facility, etc.)	All tobacco products	Yes	Adopted: October 2016 Effective: November 2016	Tobacco retailers operating prior to May 1, 2016, adult-only facilities, and hotels that sell tobacco products as part of incidental sales on the premises may still sell all tobacco products regardless of location	Policy includes a ban on all tobacco products, not just flavored tobacco products No new tobacco retailer licenses may be issued for tobacco retailers within 600 feet of a school No new licenses may be issued for tobacco product shops within 1000 feet of a youth-populated area Little cigars must be sold in pack size of at least 20	Any member of the West Hollywood Code Compliance Division, Alcohol Beverage Control Department, and the Los Angeles County Sheriff’s Department, or their designees are authorized to monitor and enforce the provision	Yes, existing retailers operating prior to May 1, 2016 are grandfathered regardless of any change or transfer of ownership of the business

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Windsor Ordinance No. 2018-323 Municipal Code 3-11-115	Prohibits the sale of all flavored tobacco products, with the exception of menthol flavored tobacco products, within the city limits	All flavored tobacco products, including e-cigarettes (excludes menthol tobacco products)	No	Adopted: March 7, 2018 Effective: April 6, 2018 Enforcement: July 30, 2018	Menthol flavored tobacco products are not included in the policy Tobacco retailers may sell flavored tobacco products if: <ol style="list-style-type: none">1. The tobacco product consists of a package of cigars containing at least five cigars or little cigars2. The tobacco product is a single cigar for which the retail price exceeds \$5.003. The tobacco product consists of pipe tobacco4. The package of chewing tobacco or snuff contains at least five units	<p>No tobacco retailer shall sell to a consumer:</p> <ol style="list-style-type: none">1. A package of cigarettes at a price that is less than \$7.00 per package of twenty 20 cigarettes, including all applicable taxes and fees2. A package of little cigars that is less than \$7.00 per package of five little cigars, including all applicable taxes and fees3. A package of cigars that is less than \$7.00 per five cigars, including all applicable taxes and fee.4. A package of chewing tobacco or snuff that is less than \$7.00 per package of five units <p>It shall be a violation of this chapter for any licensee or any of the licensee's agents or employees to sell, offer for sale, or exchange for any form of consideration:</p> <ol style="list-style-type: none">1. Any single cigar or little cigar, whether or not packaged for individual sale;2. Any number of cigars or little cigars fewer than the number contained in the manufacturer's original consumer packaging designed for retail sale to a consumer;3. Any package of cigars or little cigars containing fewer than five cigars.4. Any package of chewing tobacco or snuff containing fewer than five units. <p>*This section shall not apply to the sale or offer for sale of a single cigar for which the retail price exceeds \$5.00</p> <p>No license may be issued to authorize tobacco retailing within 1,000 feet of a school (unless the retailer was operating before the date of the ordinance codified in this chapter)</p> <p>Limits the eligibility of retailers permitted to apply for a tobacco retail license</p>	<p>The policy will be enforced by the County of Sonoma Department of Health Services</p> <p>Penalties for violations of this ordinance within a 60-month period include:</p> <ol style="list-style-type: none">1. The suspension of a license for 30 days for a first violation2. The suspension of a license for 90 days for a second violation3. The suspension of a license for one year for a third violation4. 4. The revocation of a license for four or more violations	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Yolo County Ordinance No. 1474 Municipal Code 6-15.10	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the unincorporated areas of the County	All flavored tobacco products, including e-cigarettes and menthol flavored tobacco products	Yes	Adopted: October 2016 Effective: May 1, 2017	None	Only existing tobacco retailers are eligible for a tobacco license	<p>Yolo County District Attorney is authorized to perform stings for any violations of the TRL</p> <p>Penalties for violations of this ordinance within a 60-month period include:</p> <ol style="list-style-type: none">1. A fine not less than \$250 and not exceeding \$1,000 and the suspension of a license for no less than 30 days for a first violation2. A fine not less than \$1,000 and not exceeding \$2,500 and the suspension of a license for no less than 90 days for a second violation3. A fine not less than \$2,500 and not exceeding \$5,000 and the suspension of a license for no less than five years for a third or subsequent violation <p>In addition to any other penalty authorized by law, a license shall be revoked if any court of competent jurisdiction determines, or if the Director finds after the Tobacco Retailer or Permittee is afforded notice and an opportunity to be heard, that the Tobacco Retailer or Permittee, or any of the Tobacco Retailer's or Permittee's officers, agents or employees, has violated any of the requirements, conditions, or prohibitions of this Chapter</p>	No

Chapter 5.78
TOBACCO RETAILERS Revised 6/19 Revised 7/19

Sections:

- 5.78.010 Title.** Revised 6/19
- 5.78.020 Purpose.** Revised 6/19
- 5.78.030 Definitions.** Revised 6/19 Revised 7/19
- 5.78.040 Tobacco retailer license required.** Revised 6/19
- 5.78.050 Limits on eligibility and location.** Revised 6/19
- 5.78.060 License application procedure.** Revised 6/19
- 5.78.070 Issuance of tobacco retailer license.** Revised 6/19
- 5.78.080 Term and renewal.** Revised 6/19
- 5.78.090 License nontransferable.** Revised 6/19
- 5.78.100 Operating requirements.** Revised 6/19 Revised 7/19
- 5.78.110 Compliance monitoring and enforcement.** Revised 6/19
- 5.78.120 Violations.** Revised 6/19
- 5.78.130 Tobacco retailing without a valid license.** Revised 6/19
- 5.78.140 New license after revocation.** Revised 6/19
- 5.78.150 Implementing rules and regulations.** Revised 6/19

5.78.010 Title. Revised 6/19

This chapter shall be known as the "Tobacco Retailer Ordinance" of the city of Hermosa Beach. (Ord. 19-1389 §1 (part), 2019)

5.78.020 Purpose. Revised 6/19

In enacting this chapter, it is the intent of the city council to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those involving the sale or distribution of tobacco and nicotine products to youth. (Ord. 19-1389 §1 (part), 2019)

5.78.030 Definitions. Revised 6/19 Revised 7/19

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

"Arm's length transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two (2) informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter, is not an arm's length transaction.

"Characterizing flavor" means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product or any byproduct produced by the tobacco product, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice; provided, however, that a tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information.

"Consumer" means a person who purchases a tobacco product for consumption and not for sale to another.

"Electronic smoking device" has the same meaning as the term is defined in Section 8.40.010.

"Enforcement official" means any member of the Hermosa Beach Code enforcement department, the Hermosa Beach police department, the California Department of Health Services, the California Alcohol Beverage Control Department, and the Los Angeles County sheriff's department, or their designees.

"Flavored tobacco product" means any tobacco product that imparts a characterizing flavor.

"Little cigar" means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than three (3) pounds per thousand. "Little cigar" includes, but is not limited to, any tobacco product known or labeled as "small cigar" or "little cigar."

"Package" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold or offered for sale to a consumer.

"Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.

"Pharmacy" means any retail establishment in which the profession of pharmacy is practiced by a pharmacist licensed by the state of California in accordance with the Business and Professions Code and where prescription pharmaceuticals are offered for sale, regardless of whether the retail establishment sells other retail goods in addition to prescription pharmaceuticals.

"Restaurant" means a place where people pay to sit and eat meals that are cooked and served on the premises.

"Restaurant" does not include a deli where prepared foods are ordered, purchased, and picked up by a person to be eaten outside or off the premises without service.

"Sale" means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

"Self-service display" means the open display or storage of tobacco products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or retailer's agent or employee. A vending machine is a form of self-service display.

"Smoking" means the combustion, electrical ignition or vaporization and/or inhaling, exhaling, burning, or carrying any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device, or any plant product intended for human inhalation that facilitates the release of gases, particles, or vapors into the air.

"Tobacco paraphernalia" means any item designed for the consumption, use, or preparation of tobacco products.

"Tobacco product" means:

1. Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus; and
2. Any electronic smoking device, with or without nicotine.
3. Notwithstanding any provision of subsections (1), (2) and (3) of this definition to the contrary, "tobacco product" includes any component, part, or accessory of a tobacco product, whether or not sold separately. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco products or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange. (Ord. 19-1392 §1, 2019; Ord. 19-1389 §1 (part), 2019)

5.78.040 Tobacco retailer license required. Revised 6/19

It shall be unlawful for any person to engage in tobacco retailing in the city without first obtaining and maintaining a valid tobacco retailer license pursuant to the provisions of this chapter for each location at which that activity is to occur. (Ord. 19-1389 §1 (part), 2019)

5.78.050 Limits on eligibility and location. Revised 6/19

A. No license may be issued under this chapter to authorize tobacco retailing at other than a fixed location, such as on foot or from vehicles.

B. No license may be issued under this chapter to authorize tobacco retailing at a temporary or recurring temporary event, such as farmers' markets, special events, or mobile carts.

C. No license may be issued under this chapter to authorize tobacco retailing at any location that violates any provision of the Hermosa Beach Zoning Ordinance.

D. Pharmacies. No license may be issued to authorize tobacco retailing in a pharmacy.

E. Schools and Youth-Populated Areas. Tobacco retailing is prohibited near schools and areas with youth populations as follows:

1. No license may issue to authorize tobacco retailing within five hundred (500) feet of a youth-populated area as measured by a straight line from the nearest point of the property line of the parcel on which the youth-populated area is located to the nearest point of the property line of the parcel on which the applicant's business is located.

For the purposes of this subsection, a "youth-populated area" means a parcel in the city that is occupied by:

- a. A private or public kindergarten, elementary, middle, junior high, or high school;
- b. A library open to the public;
- c. A playground or sandbox area open to the public, as defined by California Health and Safety Code Section 104495; or
- d. A youth center, defined as a facility where children, ages six (6) to seventeen (17), inclusive, come together for programs and activities.

F. Premises Furnishing Alcohol and/or Food for On-Site Consumption. No license may issue to authorize tobacco retailing at any of the following locations: (1) a place that is licensed under state law to serve alcoholic beverages for consumption on the premises (e.g., an "on-sale" license issued by the California Department of Alcoholic Beverage Control); or (2) a restaurant, as the term is defined in this chapter.

G. Notwithstanding the foregoing, a tobacco retailer operating lawfully on the effective date of the ordinance codified in this chapter that otherwise would be eligible for a tobacco retailer license for the location for which a license is sought may receive or renew a license for that location so long as: (1) the license is timely obtained and is renewed without lapse or permanent revocation (as opposed to temporary suspension); (2) the tobacco retailer is not closed for business or otherwise suspends tobacco retailing for more than sixty (60) consecutive days; (3) the tobacco retailer does not substantially change the business premises or business operation; and (4) the tobacco retailer retains the right to operate under other applicable laws, including without limitation the Zoning Ordinance, building codes, and business license tax ordinance, (Ord. 19-1389 §1 (part), 2019)

5.78.060 License application procedure. Revised 6/19

A. Any person seeking a license pursuant to this chapter shall submit a completed application, on a city-approved form, to the finance department.

B. The application for a license under this chapter shall be submitted in the name of each and every business owner proposing to conduct retail tobacco sales for each location at which retail tobacco sales are being proposed and shall be signed by each business owner or an authorized agent thereof.

C. Said application shall contain the following information:

1. The name, address, and telephone number of each business owner seeking a license.

2. The business name, address, and telephone number of the single, fixed location for which a license is sought.

3. A single name and mailing address of an agent authorized by each business owner to receive all communications and notices required by, authorized by, or convenient to the enforcement of this chapter. If an authorized agent is not supplied, each business owner shall be understood to consent to the provision of notice at the business address specified in subsection (C)(2) of this section.

4. Proof that the location for which a tobacco retailer license is sought has been issued a valid state tobacco retailer's license by the California Department of Tax and Fee Administration.

5. Whether any business owner or any agent of the business owner was previously issued a license pursuant to this chapter which was at any time suspended or revoked, and, if so, the dates of the suspension period or the date of the revocation.

6. Whether any business owner or any agent of the business owner has been determined to have violated any provision of this chapter or any state or federal tobacco-related law, and, if so, the dates of all such violations within the preceding five (5) years.

7. Such other information as the finance department deems necessary for the administration or enforcement of this chapter as specified on the application form required by this chapter.

D. The city council may establish by resolution the amount of an application fee for the tobacco retailer license in an amount not to exceed the city's reasonable cost of providing the services required by this chapter, in which case the city shall accept no application unless accompanied by payment of such fee.

E. An applicant or agent thereof shall inform the finance department in writing of any change in the information submitted on an application for a tobacco retailer registration within ten (10) business days of a change. (Ord. 19-1389 §1 (part), 2019)

5.78.070 Issuance of tobacco retailer license. Revised 6/19

A. Upon the receipt of a completed application for a tobacco retailer license and the corresponding application fee, if any, the finance department, with consultation of community development department for location requirements, shall issue a license unless substantial evidence demonstrates that one (1) or more of the following bases for denial exists:

1. The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter.

2. The application seeks authorization for tobacco retailing at a location prohibited by Section 5.78.050.

3. The applicant has had a license issued pursuant to this chapter revoked within the preceding twelve (12) months.

4. The application seeks authorization for tobacco retailing that is otherwise prohibited pursuant to this chapter, that is unlawful pursuant to this Code (including without limitation the Hermosa Beach Zoning Ordinance and business license regulations), or that is unlawful pursuant to any other law.

5. The applicant is indebted to the city for any unpaid fee or fine.

B. Any applicant aggrieved by a decision denying a license pursuant to this chapter may contest the decision by appealing the decision to the city council by filing with the city manager a written notice of appeal within ten (10) business days of the date of receipt of the license denial. Upon receipt of a timely, written request for an appeal, the city clerk shall set a hearing to occur within forty-five (45) days before the council or its designated hearing officer and shall provide written notice of same by first class mail to the appellant. The city council shall sustain or overrule with conditions, the denial or intended revocation upon written findings within thirty (30) days of the conclusion of the hearing. (Ord. 19-1389 §1 (part), 2019)

5.78.080 Term and renewal. Revised 6/19

A. A tobacco retailer license issued pursuant to this chapter shall be valid for one (1) year after the date of issuance, unless it is revoked earlier in accordance with the provisions of this chapter. The expiration date of each tobacco retailer license shall be shown on the license itself and each tobacco retailer license shall expire at midnight on the expiration date.

B. Each tobacco retailer who seeks to renew a license issued pursuant to this chapter shall submit a renewal application on a city-approved form and tender any applicable fees to the finance department no later than thirty (30) calendar days prior to the expiration of the license. Any license issued pursuant to this chapter that is not timely renewed shall expire and become null and void at the end of its term.

C. An application to renew a license issued pursuant to this chapter may be denied by the finance department upon the grounds set forth in Section 5.78.070. (Ord. 19-1389 §1 (part), 2019)

5.78.090 License nontransferable. Revised 6/19

A. No person shall operate under a name, or conduct business under a designation, not specified on the license.

B. A license issued pursuant to this chapter may not be transferred from one (1) person to another or from one (1) location to another. A change in business owner, business name, or location shall render the license null and void, and shall require a new license to be obtained in accordance with the provisions of this chapter. (Ord. 19-1389 §1 (part), 2019)

5.78.100 Operating requirements. Revised 6/19 Revised 7/19

The following operating requirements shall be deemed conditions of any tobacco retailer license issued pursuant to the provisions of this chapter, and failure to comply with any such requirement shall be grounds for suspension, revocation, or the imposition of administrative fines in accordance with Section 5.78.120.

A. Posting of License. Each license issued pursuant to this chapter shall be prominently displayed in a publicly visible location at the permitted location.

B. Retail Sales to Persons under Twenty-One (21) Prohibited. No person engaged in tobacco retailing shall sell or offer to sell, give or offer to give, or transfer or offer to transfer any tobacco product to any person who is under the legal age under state law to purchase and possess tobacco products, which is age twenty-one (21) (or eighteen (18) if active military).

C. Positive Identification Required. No tobacco retailer shall sell or transfer a tobacco product to any person who appears to be under the age of thirty (30) years old without first examining the identification of that person to confirm that person is at least the minimum age under state law to purchase and possess the product. The tobacco retailer or agent thereof shall refuse the sale or transfer of any tobacco product to any person who appears to be under the age of thirty (30) years old, who fails to present valid, legal photo identification prior to the sale or transfer.

D. Minimum Age for Persons Selling Tobacco. No person who is younger than twenty-one (21) shall engage in tobacco retailing.

E. Self-Service Displays Prohibited. Tobacco retailing by means of a self-service display is prohibited.

F. Electronic Smoking Device.

1. It shall be a violation of this chapter for any tobacco retailer or any of the tobacco retailer's agents or employees to sell or offer for sale, or to possess with intent to sell or offer for sale, any electronic smoking device. The prohibition in the preceding sentence shall not apply to a retailer that permits only patrons twenty-one (21) years of age or older, or active duty military personnel who are eighteen (18) years of age or older, to enter the location where the tobacco product is sold.

2. There shall be a rebuttable presumption that a tobacco retailer in possession of four (4) or more electronic smoking devices, including but not limited to individual electronic smoking devices, packages of electronic smoking devices, or any combination thereof, possesses such electronic smoking devices with intent to sell or offer for sale.

G. Flavored Tobacco Products.

1. It shall be a violation of this chapter for any tobacco retailer or any of the tobacco retailer's agents or employees to sell or offer for sale, or to possess with intent to sell or offer for sale, any flavored tobacco product.

2. There shall be a rebuttable presumption that a tobacco retailer in possession of four (4) or more flavored tobacco products, including but not limited to individual flavored tobacco products, packages of flavored tobacco products, or any combination thereof, possesses such flavored tobacco products with intent to sell or offer for sale.

3. There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a tobacco retailer, manufacturer, or any employee or agent of a tobacco retailer or manufacturer has done the following:

- a. Made a public statement or claim that the tobacco product imparts a characterizing flavor;
- b. Used text and/or images on the tobacco product's labeling or packaging to explicitly or implicitly indicate that the tobacco product imparts a characterizing flavor; or
- c. Taken action directed to consumers that would be reasonably expected to cause consumers to believe the tobacco product imparts a characterizing flavor.

H. Packaging and Labeling. No tobacco retailer shall sell any tobacco product to any consumer unless such product: (1) is sold in the original manufacturer's package intended for sale to consumers; and (2) conforms to all applicable federal labeling requirements.

I. Minimum Package Size for Little Cigars. No tobacco retailer shall sell to a consumer any little cigar unless it is sold in a package of at least twenty (20) little cigars.

J. False and Misleading Advertising Prohibited. A tobacco retailer who does not have a valid license pursuant to this chapter or whose license has been suspended or revoked shall not display any item or advertisement relating to tobacco products that promotes the sale or distribution of such products from the premises or that could lead a reasonable consumer to believe that tobacco products can be obtained at that location. Such display or advertisement in violation of this provision shall constitute tobacco retailing without a valid license. (Ord. 19-1392 §2, 2019; Ord. 19-1389 §1 (part), 2019)

5.78.110 Compliance monitoring and enforcement. Revised 6/19

A. Compliance checks shall be conducted so as to allow enforcement officials to determine, at a minimum, if a tobacco retailer is complying with laws regulating youth access to tobacco. The chief of police may also conduct compliance checks to determine compliance with other laws applicable to tobacco retailing.

B. During business hours, enforcement officials shall have the right to enter any place of business for which a license is required by this chapter for the purpose of making reasonable inspections to observe and enforce compliance with the provisions of this chapter and any other applicable regulations, laws, and statutes.

C. The Hermosa Beach police department (or designee thereof) may promulgate and adopt policies, procedures, and guidelines for the participation of persons under the minimum legal age for tobacco purchases in compliance checks pursuant to this chapter ("youth decoys").

D. Enforcement officials shall inspect each tobacco retailer at least one (1) time per every twelve (12) month period. Nothing in this subsection shall create a right of action in any licensee or other person against the city or its agents. (Ord. 19-1389 §1 (part), 2019)

5.78.120 Violations. Revised 6/19

A. Administrative Fine. In addition to any other penalty authorized by law, violations of this chapter are subject to the administrative citations and penalties provisions in Chapter 1.10.

B. Suspension or Revocation.

1. In addition to any other penalty authorized by law, a tobacco retailer's license shall be suspended or revoked if the city finds based on a preponderance of the evidence, after the licensee is afforded notice and an opportunity to be heard, that any of the following has occurred:

- a. The licensee or his/her agent or employee has violated any provision of this chapter;

- b. The licensee or his/her agent or employee has continued to operate as a tobacco retailer after a license issued pursuant to this chapter has been suspended; or
- c. The retailer violates any provision of this chapter twice within any thirty-six (36) month period.

2. Notwithstanding the foregoing, a license may be revoked if it is determined that one (1) or more grounds for denial of a license under Section 5.78.070 existed at the time the application was made or at any time before the license was issued. No administrative fine shall accompany a revocation of a wrongly issued license.

3. Any applicant aggrieved by a decision revoking or suspending a license pursuant to this chapter may contest the decision in the same manner as a challenge of an administrative citation, pursuant to the procedure set forth in Section 5.78.070(B), (Ord. 19-1389 §1 (part), 2019)

5.78.130 Tobacco retailing without a valid license. Revised 6/19

In addition to any other penalty authorized by law, if the city based on a preponderance of evidence, after notice and an opportunity to be heard, determines that any person has engaged in tobacco retailing at a location without a valid tobacco retailer's license, either directly or through the person's agents or employees, the person shall be ineligible to apply for, or to be issued, a tobacco retailer's license as follows:

A. After a first violation of this section at a location, no new license may be issued for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction), until thirty (30) days have passed from the date of the violation.

B. After a second violation of this section at a location within any thirty-six (36) month period, no new license may issue for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction), until ninety (90) days have passed from the date of the violation.

C. After of a third or subsequent violation of this section at a location within any thirty-six (36) month period, no new license may be issued for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction), until three (3) years have passed from the date of the violation. (Ord. 19-1389 §1 (part), 2019)

5.78.140 New license after revocation. Revised 6/19

Notwithstanding any other provision of this chapter, no tobacco retailer's license shall be issued to a tobacco retailer (or business owner thereof) whose license has previously been revoked pursuant to this chapter for a period of twelve (12) months from the date of the prior revocation, unless ownership of the business at the location has been transferred in an arm's length transaction. (Ord. 19-1389 §1 (part), 2019)

5.78.150 Implementing rules and regulations. Revised 6/19

The city manager is hereby authorized to make and promulgate any rules and regulations necessary to implement the requirements of this chapter. The rules and regulations shall be in addition to the requirements set forth in this chapter. In the event of a conflict between a provision set forth in this chapter and a rule or regulation promulgated by the city manager pursuant to this section, the more stringent or restrictive requirement or condition shall apply. (Ord. 19-1389 §1 (part), 2019)

Web Version

ORDINANCE NO. 2019-0012

Adopted by the Sacramento City Council

April 16, 2019

**An Ordinance Amending Various Sections of Chapter 5.138 of the
Sacramento City Code, Relating to Tobacco Retailers**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 5.138.010 of the Sacramento City Code is amended to read as follows:

5.138.010 Legislative findings.

- A. State law prohibits the sale or furnishing of cigarettes, tobacco products and smoking paraphernalia to persons under 21 years of age except active duty military personnel who are 18 years of age or older (California Penal Code § 308).
- B. State law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 21 years of age (California Business & Professions Code § 22956) and provides procedures for using persons under 21 years of age to conduct onsite compliance checks of tobacco retailers (California Business & Professions Code § 22952).
- C. State law requires that tobacco retailers post a conspicuous notice at each point of sale stating that selling tobacco products to anyone under 21 years of age is illegal (California Business & Professions Code § 22952, California Penal Code § 308).
- D. State law prohibits the sale or display of cigarettes through a self-service display and prohibits public access to cigarettes without the assistance of a clerk (California Business & Professions Code § 22962).
- E. State law prohibits the sale of “bidis” (a type of hand-rolled filterless cigarette) except at those businesses that prohibit the presence of minors (California Penal Code § 308.1).
- F. State law prohibits the manufacture, distribution, or sale of cigarettes in packages of less than 20 and prohibits the manufacture, distribution, or sale of “roll-your-own” tobacco in packages containing less than six-tenths of an ounce of tobacco (California Penal Code § 308.3).

- G. State law prohibits public school students from smoking or using tobacco products while on campus, while attending school-sponsored activities, or while under the supervision or control of school district employees (California Education Code § 48901(a)).
- H. Sacramento City Code section 5.140.040 prohibits the sale or distribution of tobacco products from vending machines.
- I. From 2013 to 2015, an estimated 15% of ninth and eleventh grade students in California reported using electronic smoking devices.
- J. Over 9% of high school students in California reported buying their own electronic cigarette from a store.
- K. In 2016, an estimated 82% of tobacco retailers in California sold flavored non-cigarette tobacco products, over 90% of tobacco retailers sold menthol cigarettes, and 80% tobacco retailers near schools sold flavored non-cigarette tobacco products.
- L. Mentholated and flavored products have been shown to be “starter” products for youth who begin using tobacco and these products help establish tobacco habits that can lead to long-term addiction.
- M. Between 2004 and 2014, use of non-menthol cigarettes decreased among all populations, but overall use of menthol cigarettes increased among young adults (18 to 25 years of age) and adults (over 26 years of age).
- N. Unlike cigarette use that has steadily declined among youth, the prevalence of the use of non-cigarette tobacco products has remained statistically unchanged and, in some cases, increased among youth.
- O. Flavored tobacco has significant public health implications for youth and people of color as a result of targeted industry marketing strategies and product manipulation.
- P. The density and proximity of tobacco retailers influence smoking behaviors, including the number of cigarettes smoked per day.
- Q. Adults who smoke have a harder time quitting when density of tobacco retailers is high.
- R. Policies to reduce tobacco retailer density have been shown to be effective and may reduce or eliminate inequities in the location and distribution of tobacco retailers.
- S. Neither federal nor California state laws restrict the sale of menthol cigarettes or flavored non-cigarette tobacco products, electronic smoking devices, or the solutions used in these devices.

- T. The city has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by persons under 21 years of age; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to persons under 21 years of age; and in protecting youth and underserved populations from the harms of tobacco use.
- U. California courts in Cohen v. Board of Supervisors (1985) 40 Cal.3d 277, Bravo Vending v. City of Rancho Mirage (1993) 16 Cal.App.4th 383, and Prime Gas v. City of Sacramento (2010) 184 Cal.App.4th 697, have affirmed the power of local jurisdictions to regulate business activity in order to discourage violations of law.
- V. State law authorizes local tobacco retailer licensing laws to provide for the suspension or revocation of the local tobacco retailer license for any violation of a state tobacco control law (California Business & Professions Code § 22971.3).
- W. A requirement for a tobacco retailer license will not unduly burden legitimate business activities of retailers who sell or distribute cigarettes or other tobacco products to adults. It will, however, allow the city to regulate the operation of lawful businesses to discourage violations of federal, state, and local tobacco-related laws.

SECTION 2.

Section 5.138.030 of the Sacramento City Code is amended to read as follows:

5.138.030 Definitions.

As used in this chapter, the following words and phrases shall have the meaning given them in this section, unless the context clearly requires otherwise:

“Arm’s length transaction” means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for the primary purpose of avoiding the effect of the violations of this chapter that occurred at the location, is presumed not to be an “arm’s length transaction.”

“Characterizing flavor” means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product or any byproduct produced by the tobacco product, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcohol beverage, herb, or spice.

“City manager” means the city manager of the city or his or her designee.

“Flavored tobacco product” means any tobacco product that imparts a characterizing flavor.

“Itinerant tobacco retailing” means engaging in tobacco retailing at other than a fixed location.

“License” means a tobacco retailer license issued by the city pursuant to this chapter.

“Licensee” means any proprietor holding a license issued by the city pursuant to this chapter.

“Proprietor” means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a 10% or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person has, or can have, sole or shared control over the day-to-day operations of a business.

“Tobacco product” means:

1. A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff;
2. An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah; and
3. Any component, part, or accessory of a tobacco product, whether or not sold separately.
4. “Tobacco product” does not include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose.

“Tobacco paraphernalia” means any item designed or marketed for the consumption, use, or preparation of a tobacco product.

“Tobacco retailer” means any person who sells, offers for sale, exchanges, or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia without regard to the quantity sold, offered for sale, exchanged, or offered for exchange.

“Tobacco retailing” means selling, offering for sale, exchanging, or offering to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia without regard to the quantity sold, offered for sale, exchanged, or offered for exchange.

SECTION 3.

Section 5.138.040 of the Sacramento City Code is amended to read as follows:

5.138.040 Requirement for tobacco retailer license.

- A. It shall be unlawful for any person to act as a tobacco retailer without a valid license for each location at which tobacco retailing is to occur. No license will be issued to authorize tobacco retailing at other than a fixed location. No license will be issued for itinerant tobacco retailing or tobacco retailing from vehicles.
- B. No license shall issue, and no existing license shall be renewed, to authorize tobacco retailing within 1,000 feet of a tobacco retailer already licensed pursuant to this chapter as measured by a straight line from the nearest point of the property line of the parcel on which the applicant's business is located to the nearest point of the property line of the parcel on which an existing licensee's business is located.
- C. Nothing in this chapter shall be construed to grant any person obtaining a license any status or right other than the right to act as a tobacco retailer at the location in the city identified on the face of the license, subject to compliance with all other applicable laws, regulations, and ordinances. Nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on indoor smoking made applicable to business establishments by California Labor Code section 6404.5.

SECTION 4.

Section 5.138.060 of the Sacramento City Code is amended to read as follows:

5.138.060 Issuance and renewal of license.

- A. Upon the receipt of an application for a license and the applicable license fee, the city manager shall issue a license unless:
 - 1. The application is incomplete or inaccurate;
 - 2. The application seeks authorization for tobacco retailing at an address that appears on a license that is suspended, has been revoked, or is subject to suspension or revocation proceedings for violation of any of the provisions of this chapter; provided, however, this subparagraph shall not constitute a basis for denial of a license if either or both of the following apply:
 - a. The applicant provides the city with documentation demonstrating that the applicant has acquired or is acquiring the premises or business in an arm's length transaction;
 - b. It has been more than five years since the most recent license for that location was revoked;

3. The application seeks authorization for tobacco retailing that is unlawful pursuant to this code, or that is unlawful pursuant to any other local, state, or federal law; or
 4. The city manager has information that the applicant or his or her agents or employees has violated any local, state or federal tobacco control law at the location for which the license or renewal of the license is sought within the preceding 30-day period.
- B. A license is valid for one year and must be renewed not later than 30 days prior to the expiration of the license, but no earlier than 60 days prior to the expiration of the license. Unless revoked on an earlier date, all licenses expire one year after the date of issuance. A license may be renewed for additional one-year periods by submitting an application to the city manager and payment of the applicable license fee; provided, however, a license that is suspended, has been revoked, or is subject to suspension or revocation proceedings shall not be renewed. The application and license fee shall be submitted at least 30 days, but not more than 60 days, prior to the expiration of the current valid license. The applicant shall follow all of the procedures and provide all of the information required by section 5.138.050. The city manager shall process the application according to the provisions of this section.
- C. Notwithstanding section 5.138.040B, a tobacco retailer operating lawfully on the date this subsection C is effective that would otherwise be eligible for a tobacco retailer license for the location for which a license is sought may receive or renew a license for that location so long as all of the following conditions are met:
1. The license is timely obtained and is renewed without lapse or permanent revocation (as opposed to temporary suspension);
 2. The tobacco retailer is not closed for business or has not ceased tobacco retailing for more than 60 consecutive days;
 3. The tobacco retailer does not substantially change the business premises or business operation for the purpose of increasing the sale or display of tobacco products; and
 4. The tobacco retailer retains the right to operate under all other applicable laws.
- D. When the city manager does not approve a license or renewal of a license, the city manager shall notify the applicant of the specific grounds for the denial in writing. The notice of denial shall be served personally or by mail not later than five calendar days after the date of the denial. If by mail, the notice shall be placed in a sealed envelope, with postage paid, addressed to the applicant at the address as it appears on the application. The giving of notice shall be deemed complete at the time of deposit of the notice in the United States mail without extension of time for any reason. In lieu of mailing, the notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of such delivery. Personal service to a corporation may be made by delivery of the notice to any person designated in the California Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SECTION 5.

Section 5.138.100 of the Sacramento City Code is amended to read as follows:

5.138.100 License violation.

- A. It is a violation of a license for a licensee or his or her agents or employees to sell or offer for sale any flavored tobacco product. There is a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer or its agents or employees has made a public statement or claim that the tobacco product has or produces a characterizing flavor, including, but not limited to, text, color, or images on the product's labeling or packaging that are used to expressly or impliedly communicate that a tobacco product has a characterizing flavor.
- B. It is a violation of a license for a licensee or his or her agents or employees to violate any local, state, or federal tobacco-related law.

SECTION 6.

Section 5.138.110 of the Sacramento City Code is amended to read as follows:

5.138.110 Suspension or revocation of license.

- A. In addition to any other remedy authorized by law, a license shall be suspended or revoked as provided in this section, if the city manager finds that the licensee or his or her agents or employees has or have violated any of the provisions of this chapter; provided, however, violations by a licensee at one location may not be accumulated against other locations of that same licensee, nor may violations accumulated against a prior licensee at a licensed location be accumulated against a new licensee at the same licensed location.
 - 1. Upon a finding by the city manager of a first license violation within any five-year period, the license shall be suspended for 30 days.
 - 2. Upon a finding by the city manager of a second license violation within any five-year period, the license shall be suspended for 90 days.
 - 3. Upon a finding by the city manager of a third license violation within any five-year period, the license shall be revoked.
- B. Notwithstanding section 5.138.110A, a license shall be revoked if the city manager finds that either one or both of the following conditions exist:
 - 1. One or more of the bases for denial of a license under section 5.138.060A existed at the time application was made or at any time before the license issued.
 - 2. The information contained in the license application, including supplemental information, if any, is found to be false in any material respect.

- C. In the event the city manager suspends or revokes a license, written notice of the suspension or revocation shall be served upon the licensee within five days of the suspension or revocation in the manner prescribed in section 5.138.060D. The notice shall contain:
1. A brief statement of the specific grounds for such suspension or revocation;
 2. A statement that the licensee may appeal the suspension or revocation by submitting an appeal, in writing, in accordance with the provisions of section 5.138.120, to the city manager, within 10 calendar days of the date of service of the notice; and
 3. A statement that the failure to appeal the notice of suspension or revocation will constitute a waiver of all right to an administrative appeal hearing, and the suspension or revocation will be final.
- D. A licensee for whom a license suspension is in effect, or whose license has been revoked, must cease all tobacco retailing and remove all tobacco products and tobacco paraphernalia from public view at the address that appears on the suspended or revoked license.

SECTION 7.

Section 5.138.120 of the Sacramento City Code is amended to read as follows:

5.138.120 Denial, suspension and revocation—Appeals.

- A. Any applicant or licensee aggrieved by the decision of the city manager in denying, suspending, or revoking a license, may appeal the decision by submitting a written appeal to the city manager within 10 calendar days from the date of service of the notice of denial, suspension, or revocation. The appeal must be accompanied by an appeal fee set by resolution of the city council. The written appeal shall contain:
1. A brief statement in ordinary and concise language of the specific action protested, together with any material facts claimed to support the contentions of the appellant;
 2. A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested action should be reversed or otherwise set aside;
 3. The signatures of all parties named as appellants and their official mailing addresses; and
 4. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.
- B. The appeal hearing shall be conducted by a hearing examiner appointed pursuant to section 8.04.070.

- C. Upon receipt of any appeal filed pursuant to this section, the city manager shall transmit the appeal to the secretary of the hearing examiner who shall calendar it for hearing as follows:
1. If the appeal is received by the city manager not later than 15 days prior to the next regular appeal hearing, it shall be calendared for hearing at said meeting.
 2. If the appeal is received by the city manager on a date less than 15 days prior to the next appeal hearing, it shall be calendared for the next subsequent appeal hearing.
- D. Written notice of the time and place of the hearing shall be given at least 10 calendar days prior to the date of the hearing to each appellant by the secretary of the hearing examiner either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.
- E. Failure of any person to file a timely appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the notice and order, or any portion of the notice and order.
- F. Only those matters or issues specifically raised by the appellant in the appeal notice shall be considered in the hearing of the appeal.
- G. Any suspension or revocation of a license shall be stayed during the pendency of an appeal which is properly and timely filed pursuant to this section.

SECTION 8.

Section 5.138.140 of the Sacramento City Code is amended to read as follows:

5.138.140 Conduct of hearing.

- A. Hearings need not be conducted according to the technical rules relating to evidence and witnesses. California Government Code section 11513, subdivisions (a), (b) and (c), shall apply to hearings under this chapter.
- B. Oral evidence shall be taken only upon oath or affirmation.
- C. Irrelevant and unduly repetitious evidence shall be excluded.
- D. Each party shall have these rights, among others:
1. To call and examine witnesses on any matter relevant to the issues of the hearing;
 2. To introduce documentary and physical evidence;

3. To cross-examine opposing witnesses on any matter relevant to the issues on the hearing;
 4. To impeach any witness regardless of which party first called the witness to testify;
 5. To rebut the evidence presented against the party; and
 6. To represent himself, herself, or itself or to be represented by anyone of his, her, or its choice who is lawfully permitted to do so.
- E. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact that may be judicially noticed by the courts of this state or that may appear in any of the official records of the city or any of its departments.

SECTION 9.

Section 5.138.150 of the Sacramento City Code is amended to read as follows:

5.138.150 Form and contents of decision—Finality of decision.

- A. If it is shown, by a preponderance of the evidence, that one or more bases exist to deny, suspend, or revoke the license, the hearing examiner shall affirm the city manager's decision to deny, suspend, or revoke the license. The decision of the hearing examiner shall be in writing and shall contain findings of fact and a determination of the issues presented.
- B. The decision shall inform the appellant that the decision is a final decision and that the time for judicial review is governed by California Code of Civil Procedure section 1094.6. Copies of the decision shall be delivered to the parties personally or sent by certified mail to the address shown on the appeal. The decision shall be final when signed by the hearing examiner and served as provided in this section.

SECTION 10.

Section 5.138.160 of the Sacramento City Code is amended to read as follows:

5.138.160 Enforcement.

- A. In addition to any other remedy, any person violating any provision of this chapter shall be guilty of a misdemeanor for each day such violation continues.
- B. Any violation of this chapter may be remedied by a civil action brought by the city attorney. The city may recover reasonable attorneys' fees and costs of suit in any civil action brought by the city attorney to remedy any violation of this chapter.

- C. Any person violating the provisions of this chapter shall also be liable for civil penalties of not less \$250 or more than \$25,000 for each day the violation continues.
- D. Violations of this chapter are hereby declared to be public nuisances subject to abatement by the city.
- E. In addition to criminal sanctions, civil penalties as provided in this section, and other remedies set forth in this chapter, administrative penalties may be imposed pursuant to chapter 1.28 against any person violating any provision of this chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to chapter 1.28.

SECTION 11.

The effective date of this ordinance is January 1, 2020.

Adopted by the City of Sacramento City Council on April 16, 2019, by the following vote:

Ayes: Members Ashby, Guerra, Hansen, Harris, Jennings, Schenirer and
Mayor Steinberg

Noes: Member Carr

Abstain: None

Absent: Members Warren

Attest:

Mindy Cuppy Digitally signed by Mindy Cuppy
Date: 2019.04.29 12:10:02
-07'00'

Mindy Cuppy, City Clerk

The presence of an electronic signature certifies that the foregoing is a true and correct copy as approved by the Sacramento City Council.

Passed for Publication: March 12, 2019

Published: March 15, 2019

Effective: January 1, 2020



ChangeLab Solutions

Law & policy innovation for the common good.

Item 6.

Model California Ordinance

Restricting the Sale of Menthol Cigarettes and Other Flavored Tobacco Products

Updated June 2017
(Originally published January 2014)

Developed by ChangeLab Solutions

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Introduction and Report

This Model California Ordinance Restricting the Sale of Menthol Cigarettes and Other Flavored Tobacco Products (Model Ordinance) is one potential policy intervention to reduce the consumption of tobacco products. It is based on ChangeLab Solutions' legal research and analysis, as well as the research and evidence base regarding consumption of tobacco products and the rising popularity of flavored tobacco products. The Model Ordinance should complement other policy and programmatic efforts to reduce tobacco use.

This version of the Model Ordinance (revised in June 2017) includes the following changes from the previous version: (1) It prohibits the sale of flavored cigarettes (including menthol cigarettes), and (2) it provides an optional provision to grandfather certain businesses, which exempts those businesses from complying with the flavored tobacco prohibition for a limited period of time.

The Introduction and Report section summarizes our nonpartisan analysis of the health, equity, and policy issues related to the use and sale of menthol cigarettes and other flavored tobacco products, and it outlines why it is important to restrict the sale of such products. It should be distributed broadly to the public and local groups to help people understand the relevant data and the purpose of developing a policy restricting the sale of menthol cigarettes and other flavored tobacco products.

This Model Ordinance, including this Introduction and Report, is based on our independent and objective analysis of the relevant law, evidence, and available data. It allows readers to draw their own conclusions about the merits of this Model Ordinance.

The Model Ordinance offers a variety of options. In some instances, blanks (e.g., [____]) prompt you to customize the language to fit your community's needs. In other cases, the ordinance offers you a choice of options (e.g., [choice one / choice two]). Some of the options are followed by a comment that describes the legal provisions in more detail. Some degree of customization is always necessary to make sure that the ordinance is consistent with a community's existing laws. Your city attorney or county counsel will likely be the best person to check this for you.

Background

In 2009, the federal Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) banned the manufacture of flavored cigarettes. However, the law contains an exception for menthol cigarettes and does not restrict flavored non-cigarette tobacco products, such as smokeless tobacco. Moreover, California doesn't have any state laws that regulate the sale of menthol cigarettes or flavored non-cigarette tobacco products.

Flavored tobacco products are considered “starter” products that help establish long-term tobacco use, and they are particularly appealing to youth.¹ These products also pose significant barriers to achieving health equity. Thanks to tobacco companies’ marketing efforts, youth, communities of color, low-income populations, and members of LGBTQ communities are significantly more likely to use flavored tobacco products, particularly menthol cigarettes, and disproportionately bear the burden of tobacco-related harm.

This Model Ordinance restricts the sale of all flavored tobacco products, including the following:

- (1) Flavored cigarettes already prohibited by the Tobacco Control Act;
- (2) Menthol cigarettes;
- (3) Flavored other tobacco products (OTPs), such as cigars, little cigars, cigarillos, smokeless tobacco, shisha (hookah tobacco), electronic smoking devices (ESDs), and the solutions used in ESDs; and
- (4) Flavored components, parts, and accessories, such as flavored rolling papers, filters, and blunt wraps.

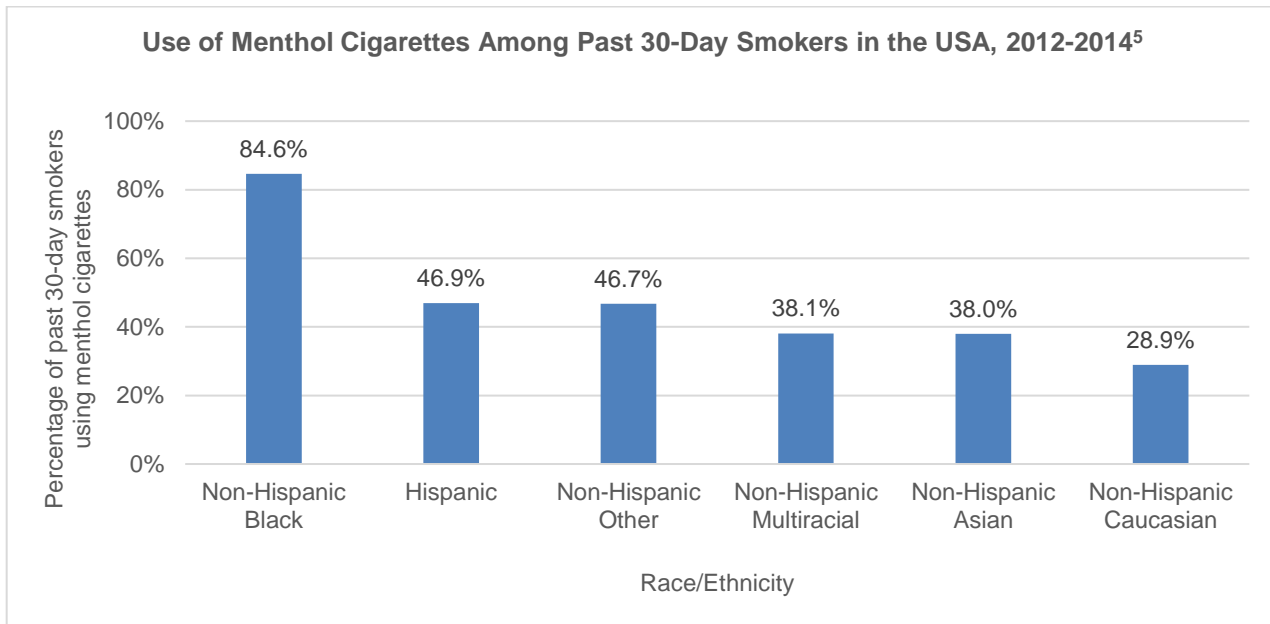
Menthol Cigarettes

For decades, tobacco companies have added menthol—a crisp, minty flavoring—to their products. By adding menthol to cigarettes, tobacco companies mask the natural harshness and taste of tobacco. The minty flavor makes tobacco products more mild, and therefore easier to use and more appealing to youth and new users.^{2,3}

Tobacco companies have manipulated the amount of menthol in cigarettes to encourage many people—particularly youth and populations targeted by the tobacco industry—to start and continue using tobacco.^{4,1} Smoking menthol cigarettes is associated with increased use of cigars and smokeless tobacco products,⁵ and it reduces the likelihood of successfully quitting smoking.^{3,6} Indeed, despite decreases in overall cigarette use in recent years, the proportion of cigarette smokers who use menthol cigarettes continues to rise.⁵ In 2014, more youth smokers used menthol cigarettes than non-mentholated cigarettes.⁵ Moreover, a 2017 study reported an increase in menthol cigarette use among youth cigarette smokers following the 2009 federal ban on flavored non-menthol cigarettes.⁷

Scientific reviews by the Tobacco Products Scientific Advisory Committee (TPSAC) and the US Food and Drug Administration (FDA) found that the marketing of menthol cigarettes likely increases the prevalence of smoking among the entire US population, and especially among youth, African Americans,³ and possibly Hispanic and Latino populations.⁶ Indeed, these groups bear the burden of menthol cigarette use: 84.6% of non-Hispanic Black smokers in the US reported smoking menthol cigarettes in the last month, in addition to 46.9% of Hispanic smokers, 38.1% of non-Hispanic multiracial smokers, 38% of non-Hispanic Asian smokers, and 46.7% of other smokers with non-Hispanic, non-Caucasian racial/ethnic backgrounds.⁵ Members of LGBTQ communities and young

adults with mental health conditions also struggle with disproportionately high rates of menthol cigarette use.^{8,9}



Tobacco companies have helped create and exacerbate these disparities. The tobacco industry has a well-documented history of developing and marketing menthol tobacco products to communities of color and youth.^{10,11} One analysis of cigarette advertising, promotions, and pack prices at stores near California high schools found that “for each 10 percentage point increase in the proportion of Black students, the proportion of menthol advertising increased by 5.9% ... the odds of a Newport [a leading brand of menthol cigarettes] promotion were 50% higher ... and the cost of Newport was 12 cents lower.”¹² There was no such association found for non-mentholated cigarettes.¹² Similarly, a New York study found that promotions that reduce the price of menthol cigarettes are disproportionately targeted to youth.¹³

Other Flavored Tobacco Products

In addition to selling menthol cigarettes, tobacco companies have developed flavored OTPs that have the same youth-friendly characteristics as the banned flavored cigarettes. For example, many of the cigar brands that are popular among teens are available in flavors such as apple, chocolate, grape, and peach.¹⁴ In fact, cigars follow only ESDs and cigarettes as the third most common form of tobacco used by youth.¹⁵ Smokeless tobacco products, including chewing tobacco, snuff, and snus, come in flavors such as mint, wintergreen, berry, cherry, and apple¹⁶ to mask the harsh taste of tobacco.^{14,17} Hookah tobacco (shisha) is available in an array of fruit, herbal, and alcoholic beverage flavors, and there is a strong—and false—perception among young people that smoking hookah is safer than smoking cigarettes.¹⁸ Nicotine solutions, also known as e-liquids and which are consumed via ESDs such as electronic

cigarettes, are sold in dozens of flavors that are attractive to youth, such as cotton candy and bubble gum.¹⁹

Consumption of flavored tobacco products has grown in recent years. From 1995 to 2008, sales of little cigars increased by 316%,²⁰ and in 2014, “flavored cigars accounted for more than half of all cigar sales (53.3%).”²¹ A 2009-2010 survey found that 42.9% of adult cigar smokers used flavored cigars,² and a 2014 survey found that 66.4% of people who smoked little cigars or cigarillos used flavored products.²² In 2014, nearly two-thirds of US middle school and high school cigar smokers reported using flavored cigars, and more than 1.5 million students reported using a flavored ESD within the past 30 days.²³ Moreover, a 2013-2014 survey found higher rates of flavored cigar use among vulnerable populations, including “cigar smokers with lower income, with less education and those who were lesbian, gay or bisexual.”²⁴

Like menthol, flavorings such as chocolate or apple help mask the naturally harsh taste of tobacco, making it easier for young people to start and continue using tobacco products.² In fact, a 2013-2014 survey found that “80.8 percent of 12-17 year olds who had ever used a tobacco product initiated tobacco use with a flavored product.”^{25,26} Policy interventions that target youth tobacco use are particularly critical because most individuals start using tobacco as minors or young adults.²⁷ In California, 64% of smokers start smoking by age 18, and 96% start smoking by age 26.²⁸ Compared with individuals who start smoking later in life, individuals who start smoking at a young age are at increased risk for severe addiction to nicotine.¹⁴

OTPs pose a threat to public health for several reasons. One major concern is that many users, especially young people, assume that OTPs do not pose significant health risks. Research shows that cigar smokers have misconceptions about the safety of cigars; for example, they often believe cigars are less harmful and less addictive than cigarettes.²⁰ Studies have found that young people believe smoking hookah is safer than smoking cigarettes, and incorrectly believe that hookah smoke is less toxic than cigarette smoke.^{29,30} Moreover, 58.8% of 12th-grade students report that they *don't* believe regular use of smokeless tobacco presents a great risk of harm.²⁷ The misperception among many young people that OTPs do not present significant health risks, coupled with the fact that many OTPs are flavored, may contribute to increased use of these products among young people.

Despite these misconceptions, the FDA has stated that “[a]ll tobacco products, including flavored tobacco products, are as addictive and carry the same health risks as regular tobacco products.”³¹ Regular cigar smoking is associated with increased risk for lung, larynx, oral cavity, and esophagus cancers.³² Hookah use has been associated with lung cancer, respiratory illness, and periodontal disease.³³ Smokeless tobacco contains at least 28 carcinogens, and there is strong evidence that users have an increased risk of developing oral cancers.¹⁴ The Surgeon General has reported that e-cigarettes “contain harmful ingredients that are dangerous to youth” and that e-cigarette aerosol “can contain

harmful and potentially harmful constituents.”³⁴ Moreover, multiple studies have confirmed that e-cigarette vapor contains toxic substances.^{35–37} To reduce the health impacts of menthol cigarette use and OTP use, communities can adopt policy interventions to regulate tobacco industry efforts that encourage youth, low-income populations, and communities of color to use mentholated and flavored products.

Considerations When Regulating Flavored Tobacco Products

A combination of strategies can protect youth from using tobacco and reduce industry-driven health inequities. Many communities are exploring programmatic and policy approaches to address the chronic health conditions associated with tobacco use. Some viable approaches are requiring local tobacco retailer licenses, limiting tobacco retailer density, setting minimum package sizes, and restricting the distribution of free or low-cost tobacco products. ChangeLab Solutions has developed this Model Ordinance as one tool to help communities reduce tobacco use, particularly among young people and vulnerable populations.

Policies that regulate the sale of flavored tobacco products can raise tensions between the government’s duty to protect individual liberty and its duty to promote and protect public health and well-being. Tobacco industry representatives and retailer associations have argued that there are already laws that prohibit the sale of tobacco products to youth. However, despite youth access laws, young people continue to buy and use tobacco products. Indeed, overall youth tobacco use didn’t change significantly between 2011 and 2015, with a 2015 survey reporting that nearly one-third (31.4%) of high school students used cigarettes, cigars, smokeless tobacco, or ESDs in the 30 days preceding the survey.¹⁵ In particular, young people are using a variety of OTPs:

- In 2015, 10.3% of high school students reported using cigars, cigarillos, or little cigars.¹⁵
- Youth hookah use increased more than 75% from 2011 to 2015, and youth ESD use increased more than tenfold during the same period.³⁸
- The percentage of high school students using smokeless tobacco products increased from 6.4% in 2012³⁹ to 7.3% in 2015.¹⁵
- A significant percentage of youth cigarette smokers concurrently use OTPs, increasing their risk for addiction and other health problems.¹⁴
- In a 2013-2014 survey, more than two-thirds of youth who used a non-cigarette tobacco product within the past 30 days reported doing so “because they come in flavors I like.”²⁶

Due to industry practices, individuals from communities of color, particularly young adults of color, are also more likely to use OTPs, such as little cigars.⁴⁰ In addition, a study found that daily menthol cigarette users are significantly more likely than occasional, non-menthol smokers to use flavored little cigars and cigarillos.⁴¹ African Americans and other communities of color are burdened with

disproportionately high rates of menthol cigarette use; this data, coupled with the findings from the study mentioned above, suggest that these populations are also more likely to use flavored little cigars and cigarillos. Many of these disparities are likely the result of tobacco companies' efforts to make these products more available, more heavily advertised, and cheaper in African American communities.⁴² Accordingly, interventions such as a flavored tobacco restriction, may be necessary to regulate the marketing and sale of flavored tobacco products, including menthol cigarettes, to youth and in communities of color.

Tobacco industry representatives have asserted that laws restricting the sale of flavored tobacco products overreach because they strip adults of the ability to buy lawful flavored products that they may prefer to non-flavored products. Additionally, retailer associations have asserted that laws restricting flavored tobacco products will result in lost revenues for local businesses. Local policymakers have discretion to assess whether the public health risks presented by flavored tobacco products are significant enough that the sale of these products should be regulated, even if such a regulation restricts the ability of adults to purchase these products or results in reduced tobacco sales for local retailers.

Congress grappled with this issue in enacting the Tobacco Control Act. They ultimately determined that the government couldn't meet the Act's goals of reducing the use of, dependence on, and social costs associated with tobacco products by allowing unrestrained access to all tobacco products. For that reason, Congress banned flavored cigarettes except menthol-flavored cigarettes (eg, fruit- and candy-flavored cigarettes), finding that a ban was appropriate given the strong youth appeal of these products.⁴³

Similarly, the US Court of Appeals for the Second Circuit found that New York City's flavored tobacco law advanced the Tobacco Control Act's goals of reducing the use of tobacco products and the harms resulting from such use.⁴⁴ Restricting the sale of flavored tobacco products is also consistent with the California legislature's decision in 2001 to ban the sale of *bidis*—hand-rolled filterless cigarettes that were sold in a variety of candy flavors. Although tobacco industry groups argued that the California bill overreached by prohibiting bidi sales to adults, state lawmakers decided to ban bidis based on the need to “reduce youth access to a particularly harmful and addictive form of tobacco.”⁴⁵

Legal Issues

Below we discuss some of the key legal issues associated with this Model Ordinance.

Federal Preemption

Preemption is a legal doctrine that provides that a higher level of government may limit, or even eliminate, the power of a lower level of government to regulate a certain issue. Under the US Constitution's “Supremacy Clause,” federal law governs over state or local law. So, if a state or local law conflicts with a federal law, the federal law trumps the lower-level law.

Tobacco industry groups and manufacturers have argued that the Tobacco Control Act, which prohibits the manufacture of flavored cigarettes (except menthol), preempts local regulation of flavored tobacco products. However, US cities have implemented ordinances restricting the sale of flavored tobacco products, including menthol cigarettes and/or flavored OTPs, and these ordinances have survived preemption challenges.

In 2009, New York City passed an ordinance restricting the sale of flavored OTPs. A smokeless tobacco manufacturer filed a lawsuit arguing that the Tobacco Control Act preempts localities from passing their own laws regulating flavored tobacco products. An appellate court upheld the ordinance, finding that federal law did not preempt New York City's ordinance because the ordinance regulated *the sale* of tobacco products, not the manufacture of those products.⁴⁴

In January 2012, Providence, RI, passed a similar law restricting the sale of flavored OTPs. Tobacco industry groups and manufacturers filed a lawsuit claiming that the Tobacco Control Act preempted the ordinance. A federal district court upheld the Providence law. The court found that the Tobacco Control Act does not preempt local laws related to the sale of tobacco products, such as Providence's ordinance restricting the sale of flavored OTPs. On September 30, 2013, the US Court of Appeals for the First Circuit affirmed the district court's decision.⁴⁶

In December 2013, Chicago passed a law prohibiting the sale of all flavored tobacco products, including menthol cigarettes, within 500 feet of any school. A trade group sued Chicago over the law, claiming that the Tobacco Control Act preempted the ordinance. On June 29, 2015, a US District Court in Illinois upheld the law, finding that the Tobacco Control Act does not preempt local laws that restrict the sale of menthol cigarettes and flavored OTPs.⁴⁷

Taken together, the decisions from Chicago, New York City, and Providence reaffirm the authority of state and local governments to enact laws regulating the sale of tobacco products and to adopt restrictions that are more stringent than federal law.

First Amendment

The First Amendment of the US Constitution protects the right to freedom of speech. Courts have determined that advertising and marketing are forms of expressive conduct—they communicate information about products to consumers. Thus, advertising, or commercial speech, is considered a type of speech under the First Amendment. For this reason, advertising has some degree of protection against government regulation; laws that attempt to restrict marketing, promotional content, or similar types of communication may not be permissible.

Under this Model Ordinance, a tobacco product is presumed to be flavored and cannot be sold if the text or images on its labeling or packaging indicate that the product imparts a flavor, taste, or aroma other

than that of tobacco. In Providence, tobacco industry groups argued that a similar provision in the city's ordinance was a marketing restriction that implicated the First Amendment. The Providence ordinance provides that a public statement made by a manufacturer that a tobacco product has a characterizing flavor constitutes presumptive evidence that the product is a flavored tobacco product. A federal court rejected the industry's First Amendment argument, finding that the use of a public statement made by a manufacturer to determine whether a product is flavored does not amount to a prohibition against speech.

The court noted that the sale of a flavored tobacco product in Providence is illegal, regardless of whether the product is specifically described as a flavored tobacco product. In other words, the court found that manufacturers are still free to describe their products as having a characterizing flavor, even though their flavored tobacco products cannot be sold in Providence. Thus, challenges to flavored tobacco regulations on First Amendment grounds have not been successful thus far.

Conclusion

Research has shown that cigarette and OTP use have serious health consequences. Young people are much more likely than adults to use menthol-, candy-, and fruit-flavored tobacco products, including cigarettes and OTPs. These products are considered “starter” products that help establish long-term tobacco use. Moreover, flavored tobacco products, particularly menthol cigarettes, pose significant barriers to achieving health equity. Thanks to tobacco companies' marketing efforts, communities of color, low-income populations, and LGBTQ communities are significantly more likely to use menthol cigarettes and disproportionately bear the burden of tobacco-related harm. Policy interventions designed to regulate products that get people hooked on tobacco, such as restrictions on the sale of flavored tobacco products, can directly address the public health and equity consequences associated with tobacco use.

References

1. U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion. *Preventing Tobacco Use Among Youth and Young Adults A Report of the Surgeon General.*; 2012. www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/.
2. King BA, Dube SR, Tynan MA. Flavored cigar smoking among U.S. adults: Findings from the 2009-2010 national adult tobacco survey. *Nicotine Tob Res.* 2013;15(2):608-614. doi:10.1093/ntr/nts178.
3. Food and Drug Administration. *Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol Versus Nonmenthol Cigarettes.*; 2013. www.fda.gov/downloads/ScienceResearch/SpecialTopics/PeerReviewofScientificInformationandAssessments/UCM361598.pdf.
4. Kreslake JM, Wayne GF, Alpert HR, Koh HK, Connolly GN. Tobacco industry control of menthol in cigarettes and targeting of adolescents and young adults. *Am J Public Health.* 2008;98(9):1685-1692. doi:10.2105/AJPH.2007.125542.
5. Villanti AC, Mowery PD, Delnevo CD, Niaura RS, Abrams DB, Giovino GA. Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014. *Tob Control.* October 2016. doi:10.1136/tobaccocontrol-2016-053329.
6. Tobacco Products Scientific Advisory Committee. *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations.*; 2011. www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf.
7. Courtemanche CJ, Palmer MK, Pesko MF. Influence of the Flavored Cigarette Ban on Adolescent Tobacco Use. *Am J Prev Med.* January 2017. doi:10.1016/j.amepre.2016.11.019.
8. Fallin A, Goodin AJ, King BA. Menthol cigarette smoking among lesbian, gay, bisexual, and transgender adults. *Am J Prev Med.* 2015;48(1):93-97. doi:10.1016/j.amepre.2014.07.044.
9. Cohn AM, Johnson AL, Hair E, Rath JM, Villanti AC. Menthol tobacco use is correlated with mental health symptoms in a national sample of young adults: implications for future health risks and policy recommendations. *Tob Induc Dis.* 2016;14(1):1. doi:10.1186/s12971-015-0066-3.
10. United States v. Philip Morris, 449 F. Supp. 2d 1, 71 (D.D.C. 2006) aff'd, 566 F.3d 1095 (D.C. Cir. 2009).
11. Yerger VB, Przewoznik J, Malone RE. Racialized Geography, Corporate Activity, and Health Disparities: Tobacco Industry Targeting of Inner Cities. *J Health Care Poor Underserved.* 2007;18(4A):10-38. doi:10.1353/hpu.2007.0120.
12. Henriksen L, Schleicher NC, Dauphinee AL, Fortmann SP. Targeted advertising, promotion, and price for menthol cigarettes in California high school neighborhoods. *Nicotine Tob Res.* 2012;14(1):116-121. doi:10.1093/ntr/ntr122.
13. Waddell EN, Sacks R, Farley SM, Johns M. Point-of-Sale Tobacco Marketing to Youth in New York State. *J Adolesc Heal.* 2016;59(3):365-367. doi:10.1016/j.jadohealth.2016.05.013.
14. U.S. Surgeon General. Preventing Tobacco Use Among Youth and Young Adults. A report from the Surgeon General. *US Dep Heal Hum Serv.* 2012;1395. www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/factsheet.ht...
15. Kann L, McManus T, Harris WA, et al. Youth Risk Behavior Surveillance United States, 2015. *MMWR Surveill Summ.* 2016;65(6):1-174. doi:10.15585/mmwr.ss6506a1.
16. Chen C, Isabelle LM, Pickworth WB, Pankow JF. Levels of mint and wintergreen flavorants: Smokeless tobacco products vs. confectionery products. *Food Chem Toxicol.* 2010;48(2):755-763. doi:10.1016/j.fct.2009.12.015.
17. Nelson DE, Mowery P, Tomar S, Marcus S, Giovino G, Zhao L. Trends in smokeless tobacco use among adults and adolescents in the United States. *Am J Public Health.* 2006;96(5):897-905. doi:10.2105/AJPH.2004.061580.
18. Morris DS, Fiala SC, Pawlak R. Opportunities for policy interventions to reduce youth hookah smoking in the United States. *Prev Chronic Dis.* 2012;9(8):E165. doi:10.5888/pcd9.120082.
19. Cameron JM, Howell DN, White JR, Andrenyak DM, Layton ME, Roll JM. Variable and potentially fatal amounts of nicotine in e-cigarette nicotine solutions. *Tob Control.* 2014;23(1):77-78. doi:10.1136/tobaccocontrol-2012-050604.
20. Cullen J, Mowery P, Delnevo C, et al. Seven-year patterns in US cigar use epidemiology among young adults aged 18-25 years: A focus on race/ethnicity and brand. *Am J Public Health.* 2011;101(10):1955-1962. doi:10.2105/AJPH.2011.300209.
21. Viola AS, Giovenco DP, Miller Lo EJ, Delnevo CD. A cigar by any other name would taste as sweet. *Tob Control.* 2016;25(5):605-606. doi:10.1136/tobaccocontrol-2015-052518.
22. Nyman AL, Sterling KL, Weaver SR, Majeed BA, Eriksen MP. Little Cigars and Cigarillos: Users, Perceptions, and Reasons for Use. *Tob Regul Sci.* 2016;2(3):239-251. doi:10.18001/TRS.2.3.4.
23. Corey C, Ambrose B, Apelberg B, King B. Flavored Tobacco Product Use Among Middle and High School Students - United States, 2014. *Morb Mortal Wkly Rep.* 2015;64(38):1066-1070. www.cdc.gov/mmwr/preview/mmwrhtml/mm6438a2.htm.
24. Bonhomme MG, Holder-Hayes E, Ambrose BK, et al. Flavoured non-cigarette tobacco product use among US adults: 2013–2014. *Tob Control.* October 2016;tobaccocontrol-2016-053373. doi:10.1136/tobaccocontrol-2016-053373.
25. American Academy of Pediatrics, American Cancer Society Cancer Action Network, American Heart Association, American Stroke Association, American Lung Association, Campaign for Tobacco-Free Kids. *The Flavor Trap: How Tobacco Companies Are Luring Kids with Candy-Flavored E-Cigarettes and Cigars.*; 2017.

- www.tobaccofreekids.org/microsites/flavortrap/full_report.pdf.
26. Ambrose BK, Day HR, Rostron B, et al. Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014. *JAMA*. 2015;314(17):1871. doi:10.1001/jama.2015.13802.
 27. U.S. Department of Health and Human Services. *Reducing Tobacco Use: A Report of the Surgeon General*. Atlanta, GA; 2000. www.cdc.gov/tobacco/data_statistics/sgr/2000/complete_report/pdfs/fullreport.pdf.
 28. Chapman R. *State Health Officer's Report on Tobacco Use and Promotion in California*. Sacramento; 2013. www.cdph.ca.gov/programs/tobacco/Documents/Resources/Publications/CA Health Officers Report on Tobacco_FINAL_revised 01 02 13.pdf.
 29. Wray RJ, Jupka K, Berman S, Zellin S, Vijaykumar S. Young adults' perceptions about established and emerging tobacco products: results from eight focus groups. *Nicotine Tob Res*. 2012;14(2):184-190. doi:10.1093/ntr/ntr168.
 30. Aljarrah K, Ababneh ZQ, Al-Delaimy WK. Perceptions of hookah smoking harmfulness: predictors and characteristics among current hookah users. *Tob Induc Dis*. 2009;5(1):16. doi:10.1186/1617-9625-5-16.
 31. U.S. Food and Drug Administration. *Flavored Tobacco Product Fact Sheet*.; 2011. www.fda.gov/syn/html/ucm183198.
 32. Shanks TG, Burns DM. "Chapter 4: Disease Consequences of Cigar Smoking" *Smoking and Tobacco Control Monograph No. 9: Cigars: Health Effects and Trends*.; 1998. http://cancercontrol.cancer.gov/brp/tcrb/monographs/9/m9_4.pdf.
 33. Akl EA, Gaddam S, Gunukula SK, Honeine R, Jaoude PA, Irani J. The effects of waterpipe tobacco smoking on health outcomes: A systematic review. *Int J Epidemiol*. 2010;39(3):834-857. doi:10.1093/ije/dyq002.
 34. U.S. Department of Health and Human Services. *E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA; 2016.
 35. Goniewicz ML, Knysak J, Gawron M, et al. Levels of selected carcinogens and toxicants in vapour from electronic cigarettes. *Tob Control*. 2014;23(2):133-139. doi:10.1136/tobaccocontrol-2012-050859.
 36. Cheng T. Chemical evaluation of electronic cigarettes. *Tob Control*. 2014;23(suppl 2):ii11-ii17. doi:10.1136/tobaccocontrol-2013-051482.
 37. Williams M, Villarreal A, Bozhilov K, Lin S, Talbot P. Metal and Silicate Particles Including Nanoparticles Are Present in Electronic Cigarette Cartomizer Fluid and Aerosol. *PLoS One*. 2013;8(3):1-12. doi:10.1371/journal.pone.0057987.
 38. Singh T, Arrazola RA, Corey CG, et al. Tobacco Use Among Middle and High School Students — United States, 2011–2015. *MMWR Morb Mortal Wkly Rep*. 2016;65(14):361-367. doi:10.15585/mmwr.mm6514a1.
 39. Arrazola R, Dube S, King B. Tobacco Product Use Among Middle and High School Students — United States , 2011 and 2012. *Mortal Morb Wkly*. 2013;62(45):893-897. www.cdc.gov/mmwr/preview/mmwrhtml/mm6245a2.htm.
 40. Sterling K, Berg CJ, Thomas AN, Glantz SA, Ahluwalia JS. Factors associated with small cigar use among college students. *Am J Health Behav*. 2013;37(3):325-333. doi:10.5993/AJHB.37.3.5.
 41. Sterling K, Fryer C, Pagano I, Jones D, Fagan P. Association between menthol-flavoured cigarette smoking and flavoured little cigar and cigarillo use among African-American, Hispanic, and white young and middle-aged adult smokers. *Tob Control*. October 2016;tobaccocontrol-2016-053203. doi:10.1136/tobaccocontrol-2016-053203.
 42. Cantrell J, Kreslake JM, Ganz O, et al. Marketing little cigars and cigarillos: Advertising, price, and associations with neighborhood demographics. *Am J Public Health*. 2013;103(10):1902-1909. doi:10.2105/AJPH.2013.301362.
 43. H.R. Rep. No. 111–58, pt. 1 (2009).
 44. U.S. Smokeless Tobacco Mfg. Co. v. City of New York, 708 F.3d 428 (2d Cir. 2013).
 45. Assembly Committee on Governmental Organization, Committee Analysis, S.B. 322, 2001–2002 Sess. (Cal. 2001).
 46. Nat'l Ass'n of Tobacco Outlets, Inc. v. City of Providence, R.I., 731 F.3d 71 (1st Cir. 2013).
 47. Indep. Gas & Serv. Stations Ass'ns, Inc. v. City of Chi., 112 F.Supp.3d 749 (N.D. Ill. 2015).

AN ORDINANCE OF THE [CITY / COUNTY] OF [____] RESTRICTING THE SALE OF MENTHOL CIGARETTES AND OTHER FLAVORED TOBACCO PRODUCTS AND AMENDING THE [____] MUNICIPAL CODE

The [City Council of the City / Board of Supervisors of the County] of [____] does ordain as follows:

COMMENT: This is introductory boilerplate language that should be adapted to the conventional form used in the jurisdiction.

SECTION I. [See **Appendix A: Findings**]

COMMENT: A draft ordinance based on this Model Ordinance should include findings of fact—data, statistics, relevant epidemiological information, for instance—that support the purposes of this legislation. The findings section is part of the ordinance and legislative record, and it contains information explaining the health and equity issues that the law would help address. A list of findings supporting this Model Ordinance appears in “Appendix A: Findings” on page 22. Jurisdictions may select findings from that list to insert here, along with additional findings on local or regional conditions, outcomes, and issues that help make the case for the law.

SECTION II. [Article / Section] of the [____] Municipal Code is hereby amended to read as follows:

Sec. [____ (*1)]. DEFINITIONS. The following words and phrases, whenever used in this [article / chapter], shall have the meanings defined in this section unless the context clearly requires otherwise:

COMMENT: Some terms defined in this Model Ordinance may already be defined in the jurisdiction’s municipal code. Include only the definitions that are necessary, and review all definitions for consistency. For example, the definition of Tobacco Product below covers a broad range of tobacco products (including electronic smoking devices), and may be more expansive than an existing definition in the municipal code. In restricting the sale of flavored tobacco products, jurisdictions with an existing definition of Tobacco Product need to decide whether to use this Model Ordinance’s definition or rely on their current definition. A jurisdiction is allowed to use different definitions of Tobacco Product in separate sections of its municipal code. However, to avoid confusion, the jurisdiction should make clear which sections of the municipal code are governed by a particular definition.

- (a) “Characterizing Flavor” means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a Tobacco Product or any byproduct produced by the Tobacco Product, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice; provided, however, that a Tobacco Product shall not be determined to have a Characterizing Flavor solely because of the use of additives or flavorings or the provision of ingredient information.
- (b) “Flavored Tobacco Product” means any Tobacco Product that imparts a Characterizing Flavor.

COMMENT: This definition of Flavored Tobacco Product includes cigarettes. Federal law already prohibits the manufacture of flavored cigarettes, but it excludes menthol cigarettes from its prohibition. This Model Ordinance is more restrictive than federal law because it prohibits both the sale of menthol cigarettes and the sale of other flavored tobacco products. Below are some examples of the types of products prohibited by this Model Ordinance.

- Menthol cigarettes, roll-your-own tobacco, and components (eg, menthol flavored rolling papers and filters intended for use with roll-your-own cigarettes)
- All other flavored cigarettes, roll-your-own tobacco, and components (eg, flavored rolling papers and filters intended for use with roll-your-own cigarettes)
- Flavored cigars and little cigars
- Flavored smokeless tobacco
- Flavored electronic smoking devices
- Flavored non-cigarette components, parts, and accessories (eg, flavored blunt wraps and flavored additives for e-liquids)

- (c) “Labeling” means written, printed, or graphic matter upon any Tobacco Product or any of its Packaging, or accompanying such Tobacco Product.
- (d) “Manufacturer” means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a Tobacco Product; or imports a finished Tobacco Product for sale or distribution into the United States.
- (e) “Packaging” means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a Tobacco Product is sold or offered for sale to a consumer.

- (f) “Person” means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- (g) “Tobacco Paraphernalia” means any item designed or marketed for the consumption, use, or preparation of Tobacco Products.
- (h) “Tobacco Product” means:
- (1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff;
 - (2) any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, electronic cigar, electronic pipe, or electronic hookah.
 - (3) Notwithstanding any provision of subsections (1) and (2) to the contrary, “Tobacco Product” includes any component, part, or accessory intended or reasonably expected to be used with a Tobacco Product, whether or not sold separately. “Tobacco Product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

COMMENT: This definition of Tobacco Product is designed to cover a wide variety of tobacco products, including cigarettes, cigars, smokeless tobacco, shisha (hookah tobacco), electronic smoking devices, and the solutions and component parts that are used in these devices. The definition includes electronic smoking devices with or without nicotine. The definition also includes any component, part, or accessory normally used with a Tobacco Product.

- (i) “Tobacco Retailer” means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, Tobacco Products or Tobacco Paraphernalia. “Tobacco Retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of Tobacco Products or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

Sec. [____ (*2)]. SALE OF FLAVORED TOBACCO PRODUCTS PROHIBITED

- (a) It shall be a violation of this [article / chapter] for any Tobacco Retailer or any of the Tobacco Retailer's agents or employees to sell or offer for sale, or to possess with intent to sell or offer for sale, any Flavored Tobacco Product.

COMMENT: Some communities have created “buffer zones” by prohibiting the sale of flavored tobacco products within a specific distance of youth-populated areas, such as schools. For example, Berkeley, CA, and Chicago, IL prohibit the sale of flavored tobacco products, including menthol cigarettes, within 600 feet of any school and within 500 feet of any high school, respectively. Although these buffer zones are an important intervention, they're not comprehensive prohibitions on flavored tobacco product sales.

Communities can consider similar policies, but they should weigh the benefits and drawbacks of implementing a non-comprehensive flavored tobacco prohibition. A buffer zone approach may not provide the same public health benefits as a comprehensive, communitywide flavored tobacco restriction. Moreover, local jurisdictions that create buffer zones will likely face increased costs for implementation and potential enforcement challenges. For example, before a community can implement a buffer zone, it must conduct mapping surveys to determine the location of schools and tobacco retailers and measure the distances between them. Communities must routinely update the maps to reflect changes that affect where flavored tobacco products may be sold (eg, if a school opens, closes, or relocates). Developing and updating these maps may require significant resources.

Local jurisdictions must also educate tobacco retailers and the general public on how to determine whether a store is located within a buffer zone that prohibits the sale of flavored tobacco. This may include developing appropriate tools and resources for tobacco retailers to determine whether their store is within a buffer zone.

Despite these considerations, buffer zones remain a viable policy option for communities. If your community is interested in adopting a flavored tobacco product buffer zone, contact ChangeLab Solutions for assistance. This is introductory boilerplate language that should be adapted to the conventional form used in the jurisdiction.

- (b) There shall be a rebuttable presumption that a Tobacco Retailer in possession of four or more Flavored Tobacco Products, including but not limited to individual Flavored Tobacco Products, packages of Flavored Tobacco Products, or any combination thereof, possesses such Flavored Tobacco Products with intent to sell or offer for sale.
- (c) There shall be a rebuttable presumption that a Tobacco Product is a Flavored Tobacco Product if a Tobacco Retailer, Manufacturer, or any employee or agent of a Tobacco Retailer or Manufacturer has:

- (1) made a public statement or claim that the Tobacco Product imparts a Characterizing Flavor;
- (2) used text and/or images on the Tobacco Product's Labeling or Packaging to explicitly or implicitly indicate that the Tobacco Product imparts a Characterizing Flavor; or
- (3) taken action directed to consumers that would be reasonably expected to cause consumers to believe the Tobacco Product imparts a Characterizing Flavor.

-----OPTIONAL PROVISION-----

[(d) A Tobacco Retailer lawfully operating as of the date this ordinance is adopted is exempt from subsection (a) for a period of up to [6 months] from the effective date of this ordinance, provided that all of the following requirements are met:

- (1) Within [thirty (30) days] of the effective date of this ordinance, the Tobacco Retailer submits to the [City Manager / County Manager] written notice that it seeks temporary exemption from subsection (a) and documentation that demonstrates: (i) the Tobacco Retailer was lawfully operating as of the date this ordinance was adopted; (ii) [seventy percent (70%)] or more of gross sales receipts are derived from Tobacco Products, Tobacco Paraphernalia, or both, or [fifty percent (50%)] or more of completed sales transactions include Tobacco Products, Tobacco Paraphernalia, or both; and (iii) the amortization period afforded by the [6-month] period for the effectiveness of the ordinance adopting this section is insufficient to allow the Tobacco Retailer to sell, return to the distributor or wholesaler, or otherwise obtain the benefit of, property which has no lawful use by virtue of the ordinance adopting this section. The submission shall include all information and documentation the [City Manager / County Manager] may request to determine the Tobacco Retailer's qualifications for this exemption.
- (2) The [City Manager / County Manager] determines the Tobacco Retailer meets the qualifications set forth in [subsection (d)(1)].
- (3) The Tobacco Retailer submits all information and documentation requested by the [City Manager / County Manager] to determine continued qualification for this exemption. This exemption to subsection (a) shall not apply if the [City Manager / County Manager] determines that the Tobacco Retailer no longer meets the qualifications set forth in [subsection (d)(1)].
- (4) The [City Manager / County Manager] shall offer the Tobacco Retailer an opportunity for an oral or paper hearing and render a written decision on the record of that hearing.

That decision shall be final as to the [City / County] and subject to judicial review pursuant to Code of Civil Procedure section 1094.5.]

COMMENT: This Model Ordinance provides a 6-month delay between when a jurisdiction adopts the ordinance and when the flavored tobacco prohibition goes into effect (see “SECTION IV. Effective Date” on page 21). This delay provides all tobacco retailers with a 6-month period to sell their remaining inventory of flavored tobacco products. The delay also provides the local government with time to plan for implementation and enforcement.

The optional provision above (subsection (d)) temporarily grandfathers certain tobacco retailers, which exempts them from having to comply with the flavored tobacco prohibition in subsection (a) for an additional limited period of up to 6 months. Thus, a local jurisdiction that includes the optional subsection (d) above is granting certain tobacco retailers a period of 12 months in which to comply with the prohibition following the adoption of the ordinance (6 months is allowed for all tobacco retailers pursuant to SECTION IV on page 21, and an additional 6 months is allowed for certain tobacco retailers pursuant to subsection (d) above). The exemption in subsection (d) applies only to tobacco retailers that primarily sell tobacco products and/or tobacco paraphernalia, as specified above (we refer to these businesses informally as “significant tobacco retailers”). To qualify for the exemption in subsection (d), a retailer must meet the following requirements.

Requirements to Qualify for the Exemption:

- (1) The Tobacco Retailer submits a written notice indicating a request for temporary exemption and documentation that demonstrates the following:
 - (a) The Tobacco Retailer was lawfully operating on the date the ordinance was adopted;
 - (b) 70% or more of gross sales receipts are derived from the sale of Tobacco Products, Tobacco Paraphernalia, or both, or 50% or more of completed sales transactions are derived from the sale of Tobacco Products, Tobacco Paraphernalia, or both; and
 - (c) The amortization period (see explanation below) provided between the date of adoption and the effective date is insufficient to allow the Tobacco Retailer to sell or return its inventory of prohibited Flavored Tobacco Products.
- (2) The government determines the Tobacco Retailer meets these qualifications and grants it an additional 6 months to comply with the prohibition.

Importantly, this exemption lapses if at any time the government determines the tobacco retailer no longer meets these qualifications. The government’s decision is not subject to an internal appeal, but it can be reviewed in court under the administrative mandamus statute.

Jurisdictions seeking the maximum public health impact from this Model Ordinance should not insert this optional provision. Many public health laws take effect immediately and apply to all existing businesses without exception. The findings in this Model Ordinance (page 22) explain how a flavored tobacco prohibition protects public health, and in particular, how it protects youth from the significant harms of tobacco use. Exempting businesses, even temporarily, can slow progress and undermine the benefits of this Model Ordinance.

Takings

Sometimes government staff ask whether applying a prohibition on flavored tobacco sales to existing businesses is a taking. A taking is a restriction on private property—which, in this case, is flavored tobacco products—that is so burdensome that a court determines that the government must pay just compensation for the property (because the government has effectively “taken” the property). Whether a law amounts to a taking is case-specific—it depends on the business—and the burden of proof falls on the business. In most settings, allowing the regulated business a reasonable time (typically a few months) to amortize the value of any investment in property—selling any remaining flavored tobacco products, for instance—that cannot be used after the prohibition takes effect prevents a taking.

An amortization period gives certain existing businesses a period of time to do business as usual before they must make changes to comply with a new law. Amortization periods are constitutional ways for local governments to balance the public interest and any financial impact on a private business. These periods are often short, measured in months, not years.

It is important to note that the financial impact is less severe for a business that sells many other products in addition to tobacco products (eg, convenience stores and grocery stores), and that inventory can be returned to the wholesaler or resold for retail sale outside the city or county adopting the prohibition. Moreover, the time between adoption of an ordinance and its effective date is sufficient to amortize minor investments in inventory and signage. For these reasons, the optional temporary grandfathering provision applies only to tobacco retailers that sell a significant amount of tobacco products and/or tobacco paraphernalia; these businesses may be most affected by a flavored tobacco prohibition. Nevertheless, a flavored tobacco prohibition does not require businesses to close, or even to stop selling all tobacco products. It is a reasonable restriction on a type of tobacco product that is particularly harmful, especially to youth. Examples of reasonable amortization periods in different contexts include the following.

- An amortization period of 1 to 4 years is sufficient for a billboard removal ordinance. *Metromedia, Inc. v. City of San Diego*, 28 Cal.3d 848, 882 (1980), reversed on other grounds, 453 U.S. 490 (1981).
- An amortization period of 32 months is sufficient to amortize a billboard. *People ex. rel. Department of Pub. Wks. v. Adco Advertisers*, 35 Cal.App.3d 507 (1979). (Note: Amortization is often litigated in the context of billboards.)
- An amortization period of 18 months is sufficient to terminate operation of an automobile wrecking yard. *People v. Gates*, 41 Cal. App. 3d 590 (1974).
- An amortization period of 20 months is sufficient to change or relocate an adult entertainment business. *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004).
- An amortization period of 24 months is sufficient to terminate operation of a cement batching plant that invested \$98,000 (1950 dollars) in the business. *Livingston Rock & Gravel Co. v. Los Angeles County*, 43 Cal. 2d 121 (1954).

Notably, a federal district court upheld a San Francisco law prohibiting the sale of all tobacco products in pharmacies and requiring that pharmacies comply by the effective date of the ordinance. In other words, the law didn’t grant an amortization period. The court explained that

the ordinance “merely regulates the sale of tobacco products; it does not force Plaintiff to engage in a certain type of business.” The court further concluded that “although Plaintiff has alleged it has a vested property right in its [tobacco retailer] permits, it cannot overcome the fact that the enactment of the amended ordinance was a reasonable and permissible use of Defendants’ police power.” *Safeway Inc. v. City & Cty. of San Francisco*, 797 F. Supp. 2d 964 (N.D. Cal. 2011).

-----END OPTIONAL PROVISION-----

Sec. [____ (*3)]. ENFORCEMENT.

- (a) The remedies provided by this [article / chapter] are cumulative and in addition to any other remedies available at law or in equity.

COMMENT: The subsections below offer a variety of enforcement options to the drafter and the enforcing agency. Drafters may choose to include some or all of these options. Once the ordinance is enacted, the enforcing agency has the discretion to choose which enforcement tools to use in each case. As a practical matter, these enforcement options would not be applied simultaneously, although multiple remedies might be used against a particularly egregious violator over time.

The enforcement options included in this Model Ordinance penalize Tobacco Retailers who sell or offer to sell Flavored Tobacco Products. In other words, this Model Ordinance does *not* penalize individuals for purchasing, attempting to purchase, possessing, or using Flavored Tobacco Products. Well-enforced laws targeting retailers are more effective and provide greater public health benefits than laws penalizing users. Moreover, laws penalizing purchasers and users raise significant equity concerns because their enforcement often disproportionately affects communities of color.

Some communities face challenges in enforcing their Flavored Tobacco Product ordinances. For example, enforcement officials may have trouble determining when a Tobacco Product qualifies as a Flavored Tobacco Product, particularly when the packaging and marketing materials do not explicitly identify a Characterizing Flavor (eg, Tobacco Products using “concept flavors” like “Arctic” and “Lightning”). Communities should consider potential challenges and develop guidelines for staff enforcement. If your community is concerned about enforcement, please contact ChangeLab Solutions for assistance.

- (b) Violations of this [article / chapter] are subject to a civil action brought by the [City Prosecutor / District Attorney] or the [City Attorney / County Counsel], punishable by a civil fine not less than [two hundred fifty dollars (\$250)] and not exceeding [one thousand dollars (\$1,000)] per violation.

COMMENT: This provision outlines the civil fines for violations of the ordinance. It requires the

city or county file a traditional civil suit. The fine amounts can be adjusted but cannot exceed \$1,000 per violation. Government Code section 36901.

- (c) Violations of this [article / chapter] may, at the discretion of the [City Prosecutor / District Attorney], be prosecuted as infractions or misdemeanors when the interests of justice so require.

COMMENT: Sometimes called a “wobbler,” this provision affords the prosecuting attorney discretion to pursue a violation as an infraction (like a parking ticket) or a misdemeanor (a crime punishable by up to a \$1,000 fine and/or 6 months in a county jail). Alternatively, violations can be set as either an infraction or a misdemeanor in all circumstances. Fines and other criminal penalties are established by the Penal Code and are typically reflected in the general punishments provision of a local code.

SECTION III. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases of this Ordinance, or its application to any other person or circumstance. The [City Council / Board of Supervisors] of the [City / County] of [] hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.

COMMENT: This is standard language. Often this “boilerplate” is found at the end of an ordinance, but its location is irrelevant.

SECTION IV. EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after [6 months after date of enactment].

COMMENT: This section specifies the effective date of the ordinance, and it should be tailored to give the enforcing agency adequate time to educate tobacco retailers and the general public. The agency should also use this time to determine enforcement protocols for flavored tobacco products. General law cities and counties in California must provide a minimum of 30 days between an ordinance’s adoption and its effective date.

Appendix A: Findings.

The [City Council of the City / Board of Supervisors of the County] of [____] hereby finds and declares as follows:

WHEREAS, the federal Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act), enacted in 2009, prohibited candy- and fruit-flavored cigarettes,¹ largely because these flavored products were marketed to youth and young adults,² and younger smokers were more likely than older smokers to have tried these products;³ and

WHEREAS, although the manufacture and distribution of flavored cigarettes (excluding menthol) are banned by federal law,⁴ neither federal law nor California law restricts the sale of menthol cigarettes or flavored non-cigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, electronic smoking devices, and the solutions used in these devices; and

WHEREAS, flavored tobacco products are very common in California tobacco retailers as evidenced by the following:

- 97.4% of stores that sell cigarettes sell menthol cigarettes;⁵
- 94.5% of stores that sell little cigars sell them in flavored varieties;⁶
- 84.2% of stores that sell electronic smoking devices sell flavored varieties;⁷ and
- 83.8% of stores that sell chew or snus sell flavored varieties;⁸ and

WHEREAS, more than 1 in 4 stores located within 1,000 feet of California schools sell tobacco, and more than 3 out of 4 of these tobacco retailers sell flavored tobacco products (not including mentholated cigarettes);⁹ and

WHEREAS, mentholated and flavored products have been shown to be “starter” products for youth who begin using tobacco¹⁰ and that these products help establish tobacco habits that can lead to long-term addiction;¹¹ and

WHEREAS, at least one study has found that the majority of smokeless tobacco users reported that the first smokeless product they used was mint-flavored (such as ice, mint, spearmint, or wintergreen flavors), and almost two-thirds who transitioned to daily use of smokeless tobacco products first used a mint-flavored product;¹² and

WHEREAS, young people are much more likely than adults to use menthol-, candy-, and fruit-flavored tobacco products, including cigarettes, cigars, cigarillos, and hookah tobacco;¹³ and

WHEREAS, 70% of middle school and high school students who currently use tobacco, report using flavored products that taste like menthol, alcohol, candy, fruit, chocolate, or other sweets;¹⁴ and

WHEREAS, data from the National Youth Tobacco Survey indicate that more than two-fifths of US middle school and high school smokers report using flavored little cigars or flavored cigarettes;¹⁵ and

WHEREAS, much of the growing popularity of small cigars and smokeless tobacco is among young adults and appears to be linked to use of flavored products;¹⁶ and

WHEREAS, the Centers for Disease Control and Prevention has reported a more than 800% increase in electronic cigarette use among middle school and high school students between 2011 and 2015;¹⁷

WHEREAS, nicotine solutions, which are consumed via electronic smoking devices such as electronic cigarettes, are sold in dozens of flavors that appeal to youth, such as cotton candy and bubble gum;¹⁸ and

WHEREAS, the California Attorney General has stated that electronic cigarette companies have targeted minors with fruit-flavored products;¹⁹ and

WHEREAS, between 2004 and 2014 use of non-menthol cigarettes decreased among all populations, but overall use of menthol cigarettes increased among young adults (ages 18 to 25) and adults (ages 26+);²⁰ and

WHEREAS, people ages 12 and older from communities of color are more likely to smoke mentholated cigarettes, as evidenced by the following percentages of people who smoke cigarettes reported smoking mentholated cigarettes in the last month:²¹

- 82.6% of Black or African American individuals;
- 53.2% of Native Hawaiians or Other Pacific Islanders;
- 36.9% of individuals with multiracial backgrounds;
- 32.3% of Hispanic or Latino individuals;
- 31.2% of Asian individuals;
- 24.8% of American Indians or Alaska Natives; and
- 23.8% of White or Caucasian individuals; and

WHEREAS, adding menthol and other flavorings to tobacco products, such as cigarettes, little cigars, cigarillos, and smokeless tobacco, can mask the natural harshness and taste of tobacco, making these

products easier to use and increasing their appeal among youth;²² and

WHEREAS, the tobacco industry has been manipulating the dose of menthol in cigarettes to ensure the uptake and continued use of tobacco, especially by young people and vulnerable populations for many years;²³ and

WHEREAS, smoking mentholated cigarettes reduces the likelihood of successfully quitting smoking;²⁴ and

WHEREAS, the tobacco industry has a well-documented history of developing and marketing mentholated brands to communities of color and youth;²⁵ and

WHEREAS, a review of advertising, promotions, and pack prices near California high schools found that “for each 10 percentage point increase in the proportion of Black students, the proportion of menthol advertising increased by 5.9% ... the odds of a Newport [a leading brand of mentholated cigarettes] promotion were 50% higher ... and the cost of Newport was 12 cents lower.” There was no such association found for non-mentholated cigarettes;²⁶ and

WHEREAS, a New York study found that price reduction promotions for menthol cigarettes are disproportionately targeted to youth markets;²⁷ and

WHEREAS, scientific reviews by the Tobacco Products Scientific Advisory Committee (TPSAC) and the FDA found marketing of menthol cigarettes likely increases the prevalence of smoking among the entire population, and especially among youth, African Americans,²⁸ and possibly Hispanic and Latino individuals;²⁹

WHEREAS, scientific studies on the impact of a national ban on menthol in cigarettes found 36.5% of menthol cigarette users would try to quit smoking if menthol was banned³⁰ and between 300,000 and 600,000 lives would be saved by 2050;³¹ and

WHEREAS, an evaluation of New York City’s law, which prohibits the sale of all flavored tobacco, excluding menthol, found that as a result of the law, youth had 37% lower odds of ever trying flavored tobacco products and 28% lower odds of ever using any type of tobacco.³²

1. 21 U.S.C. § 387g(a)(1)(A).
2. Carpenter CM, Wayne GF, Pauly JL, Koh HK, Connolly GN. New cigarette brands with flavors that appeal to youth: Tobacco marketing strategies. Tobacco industry documents reveal a deliberate strategy to add flavors known to appeal to younger people. *Health Aff.* 2005;24(6):1601-1610. doi:10.1377/hlthaff.24.6.1601. Lewis MJ, Wackowski O. Dealing with an innovative industry: A look at flavored cigarettes promoted by mainstream brands. *Am J Public Health.* 2006;96(2):244-251. doi:10.2105/AJPH.2004.061200. Connolly GN. Sweet and spicy flavours: new brands for minorities and youth. *Tob Control.* 2004;13(3):211-212. doi:10.1136/tc.2004.009191. U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion. *Preventing Tobacco Use Among Youth and Young Adults A Report of the Surgeon General.* 2012. www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/.
3. U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion. *Preventing Tobacco Use Among Youth and Young Adults A Report of the Surgeon General.* 2012. www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/.
4. 21 U.S.C. § 387g(a)(1)(A).
5. Schleicher N, Johnson T, Ahmad I, Henriksen L. Tobacco Marketing in California's Retail Environment Final report for the California Tobacco Advertising Survey (2011-2014) Submitted to the California Tobacco Control Program , California Department of Public Health. 2015. http://www.cdph.ca.gov/programs/tobacco/Documents/CDPH%20CTCP%20Refresh/Research%20and%20Evaluation/Reports/Tobacco%20Marketing%20in%20Californias%20Retail%20Environment_Notations_Final%209.16.pdf.
6. *Id.*
7. *Id.*
8. *Id.*
9. California Department of Public Health California Tobacco Control Program. *Healthy Stores for a Healthy Community: Alameda County.* 2014. [www.healthystoreshealthycommunity.com/documents/counties/Alameda County Data \(English\).pdf](http://www.healthystoreshealthycommunity.com/documents/counties/Alameda%20County%20Data%20(English).pdf).
10. Hersey JC, Ng SW, Nonnemaker JM, et al. Are menthol cigarettes a starter product for youth? *Nicotine Tob Res.* 2006;8(3):403-413. doi:10.1080/14622200600670389. Wackowski O, Delnevo CD. Menthol cigarettes and indicators of tobacco dependence among adolescents. *Addict Behav.* 2007;32(9):1964-1969. doi:10.1016/j.addbeh.2006.12.023. U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion. *Preventing Tobacco Use Among Youth and Young Adults A Report of the Surgeon General.* 2012. www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/.
11. U.S. Food and Drug Administration. Flavored Tobacco Product Fact Sheet. 2011. www.fda.gov/syn/html/ucm183198. U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion. *Preventing Tobacco Use Among Youth and Young Adults A Report of the Surgeon General.* 2012. www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/.
12. Oliver AJ, Jensen J a, Vogel RI, Anderson AJ, Hatsukami DK. Flavored and nonflavored smokeless tobacco products: rate, pattern of use, and effects. *Nicotine Tob Res.* 2013;15(1):88-92. doi:10.1093/ntr/nts093.
13. King BA, Dube SR, Tynan MA. Flavored cigar smoking among U.S. adults: Findings from the 2009-2010 national adult tobacco survey. *Nicotine Tob Res.* 2013;15(2):608-614. doi:10.1093/ntr/nts178. Villanti AC, Richardson A, Vallone DM, Rath JM. Flavored tobacco product use among U.S. young adults. *Am J Prev Med.* 2013;44(4):388-391. doi:10.1016/j.amepre.2012.11.031. Substance Abuse and Mental Health Services Administration. *The NSDUH Report: Recent Trends in Menthol Cigarette Use.* Rockville, MD; 2011. www.samhsa.gov/data/sites/default/files/WEB_SR_088/WEB_SR_088/WEB_SR_088.htm.
14. Corey C, Ambrose B, Apelberg B, King B. Flavored Tobacco Product Use Among Middle and High School Students - United States, 2014. *Morb Mortal Wkly Rep.* 2015;64(38):1066-1070. www.cdc.gov/mmwr/preview/mmwrhtml/mm6438a2.htm.
15. King BA, Tynan MA, Dube SR, Arrazola R. Flavored-little-cigar and flavored-cigarette use among U.S. middle and high school students. *J Adolesc Heal.* 2014;54(1):40-46. doi:10.1016/j.jadohealth.2013.07.033.
16. U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion. *Preventing Tobacco Use Among Youth and Young Adults A Report of the Surgeon General.* 2012. www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/.
17. Singh T, Arrazola RA, Corey CG, et al. Tobacco Use Among Middle and High School Students — United States, 2011–2015. *MMWR Morb Mortal Wkly Rep.* 2016;65(14):361-367. doi:10.15585/mmwr.mm6514a1.
18. Cameron JM, Howell DN, White JR, Andrenyak DM, Layton ME, Roll JM. Variable and potentially fatal amounts of nicotine in e-cigarette nicotine solutions. *Tob Control.* 2014;23(1):77-78. doi:10.1136/tobaccocontrol-2012-050604. U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion. *Preventing Tobacco Use Among Youth and Young Adults A Report of the Surgeon General.* 2012. www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/.
19. Press Release, State of California Department of Justice, Office of the Attorney General, Brown Announces Electronic Cigarette Maker's Agreement to Stop Deceptive Marketing and Sales to Minors (Aug. 3, 2010), oag.ca.gov/news/press-releases/brown-announces-electronic-cigarette-makers-agreement-stop-deceptive-marketing.
20. Villanti AC, Mowery PD, Delnevo CD, Niaura RS, Abrams DB, Giovino DB. Changes in the prevalence and correlates of

- menthol cigarette use in the USA, 2004-2014. *Tob Control*. 2016;25:ii14-ii20. doi: 10.1136/tobaccocontrol-2016-053329.
21. Substance Abuse and Mental Health Services Administration. *The NSDUH Report: Use of Menthol Cigarettes*. 2009. <https://perma.cc/4UG9-HUQ2>.
22. King BA, Dube SR, Tynan MA. Flavored cigar smoking among U.S. adults: Findings from the 2009-2010 national adult tobacco survey. *Nicotine Tob Res*. 2013;15(2):608-614. doi:10.1093/ntr/nts178. Nelson DE, Mowery P, Tomar S, Marcus S, Giovino G, Zhao L. Trends in smokeless tobacco use among adults and adolescents in the United States. *Am J Public Health*. 2006;96(5):897-905. doi:10.2105/AJPH.2004.061580. Food and Drug Administration. *Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol Versus Nonmenthol Cigarettes*. 2013. www.fda.gov/downloads/ScienceResearch/SpecialTopics/PeerReviewofScientificInformationandAssessments/UCM361598.pdf.
23. Kreslake JM, Wayne GF, Alpert HR, Koh HK, Connolly GN. Tobacco industry control of menthol in cigarettes and targeting of adolescents and young adults. *Am J Public Health*. 2008;98(9):1685-1692. doi:10.2105/AJPH.2007.125542. U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion. Preventing Tobacco Use Among Youth and Young Adults A Report of the Surgeon General. 2012. www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/.
24. Tobacco Products Scientific Advisory Committee. *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*. 2011. www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf. Food and Drug Administration. *Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol Versus Nonmenthol Cigarettes*. 2013. www.fda.gov/downloads/ScienceResearch/SpecialTopics/PeerReviewofScientificInformationandAssessments/UCM361598.pdf.
25. United States v. Philip Morris, 449 F. Supp. 2d 1, 71 (D.D.C. 2006) aff'd, 566 F.3d 1095 (D.C. Cir. 2009). Yerger VB, Przewoznik J, Malone RE. Racialized Geography, Corporate Activity, and Health Disparities: Tobacco Industry Targeting of Inner Cities. *J Health Care Poor Underserved*. 2007;18(4A):10-38. doi:10.1353/hpu.2007.0120.
26. Henriksen L, Schleicher NC, Dauphinee AL, Fortmann SP. Targeted advertising, promotion, and price for menthol cigarettes in California high school neighborhoods. *Nicotine Tob Res*. 2012;14(1):116-121. doi:10.1093/ntr/ntr122
27. Waddell EN, Sacks R, Farley SM, Johns M. Point-of-Sale Tobacco Marketing to Youth in New York State. *J Adolesc Heal*. 2016;59(3):365-367. doi:10.1016/j.jadohealth.2016.05.013.
28. Food and Drug Administration. *Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol Versus Nonmenthol Cigarettes*. 2013. www.fda.gov/downloads/ScienceResearch/SpecialTopics/PeerReviewofScientificInformationandAssessments/UCM361598.pdf.
29. Tobacco Products Scientific Advisory Committee. *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*. 2011. www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf.
30. O'Connor RJ, Bansal-Travers M, Carter LP, Cummings KM. What would menthol smokers do if menthol in cigarettes were banned? Behavioral intentions and simulated demand. *Addiction*. 2012;107(7):1330-1338. doi:10.1111/j.1360-0443.2012.03822.x.
31. Levy DT, Pearson JL, Villanti AC, et al. Modeling the future effects of a menthol ban on smoking prevalence and smoking-attributable deaths in the United States. *Am J Public Health*. 2011;101(7):1236-1240. doi:10.2105/AJPH.2011.300179.
32. Farley SM, Johns M. New York City flavoured tobacco product sales ban evaluation. *Tob Control*. February 2016:tobaccocontrol-2015-052418. doi:10.1136/tobaccocontrol-2015-052418.



CITY OF OROVILLE STAFF REPORT

TO: MAYOR REYNOLDS AND COUNCIL MEMBERS

FROM: JOE DEAL, PUBLIC SAFETY DIRECTOR

RE: POTENTIAL OPTIONS FOR IMPROVING THE QUALITY OF LIFE IN THE CITY OF OROVILLE

DATE: OCTOBER 01, 2019

SUMMARY

The Council will discuss and review activities that may have reduced the quality of life in Oroville and provide staff direction regarding potential staffing, programs, policies & procedures to assist with improving those issues.

DISCUSSION

Quality of life type issues have increased the number of crimes that have occurred, while decreasing a sense of order within the City of Oroville. Some of these issues include, loitering, public urination, prowling, trespassing, thefts, vandalism, speeding in neighborhoods, panhandling, etc. A common belief is that these types of issues are only caused by homelessness. In fact, there are a number of quality of life type offenses that have nothing to do with homelessness. Homelessness may be a factor, but due to recent law changes within AB 109 & Prop 47, traditional enforcement practices are no longer available.

EXPENDED RESOURCES:

There are a number of resources within the city that are being expended on these types of issues. In Fiscal Year 18/19, upwards of 1,000 hours of Police time was spent responding to and handling the call for service on these types of issues. Additional time was spent transporting subjects to jail, writing reports, logging evidence, etc. That number would multiply as a good portion of calls require multiple officers to respond.

Police Dispatch time spent on these types of incidents equaled approximately \$20,000.00 during FY 18/19.

A large burden of these types of calls have fallen upon the Municipal Law Enforcement Officer (MLE) and/or Code Enforcement. MLE's spend a little over 700 hours a year patrolling various parking lots and businesses at the start of their shifts. MLE's also handle a large portion of the loitering, trespassing, and abandoned vehicle type calls within the City.

Oroville Fire Department also spends resources on these types of incidents, largely as it relates to responding to and handling reported warming fires. Responding to such events not only

takes personnel, it also takes an engine, thus eliminating that piece of equipment from being able to respond to other emergencies.

The Parks & Trees Department works daily to attempt to keep public restrooms and parks are clean and presentable. Vandalism has proven to be an issue that the Parks & Trees Department spends a lot of time and resources on. Over \$25,000.00 in repairs have been spend on vandalism in public restrooms and drinking fountains. The Parks Department has also had to spend time retrieving shopping carts from within our parks as well as other areas within the city.

IDEAS FOR POSSIBLE SOLUTIONS:

A Problem Oriented Policing (POP) Team would greatly assist in addressing these quality of life type offenses, as they would be a special team that only focuses on Problem Oriented Policing. If authorized, a POP Team could work together with local non-profit organizations, to include the Hope Center, The Haven of Hope on Wheels, The Oroville Rescue Mission, etc., as well as city departments, including Code Enforcement and Parks/Trees Department, to bring a positive impact to the community. Additionally, other resources such as catalyst and behavior health could assist and supplement the POP Team. The implementation of such team would allow the expended resources discussed within, to return to their departments while an established team spends 40 hours a week addressing the issues at hand. When not dealing with quality of life type concerns, there would be a large focus on community outreach.

Added Positions to Current Budget	Associated Costs
1-Police Sergeant	\$125,000.00 (Estimated)
2-Police Officers	\$202,000.00 (Estimated)
1-Municipal Law Enforcement Officer (MLE)	\$66,000.00 (Estimated)
1-Fire Prevention Officer	\$101,000.00 (Estimated)
3-Marked Police Vehicles	TBA (One-time expenditure)
1-Fire Prevention Vehicle	TBA (One-time expenditure)
1-Transport Vehicle	TBA (One-time expenditure)

Funding a Fire Prevention Officer position would prove beneficial in a multitude of areas. A fire prevention officer would interpret, review and enforce fire safety laws, regulations, plans and ordinances; perform fire inspections of new and existing buildings and installations requiring fire clearances; investigate complaints of fire prevention law/ordinance violations; issue correction orders as needed, including weed abatement; recommend necessary changes; maintain records of his/her activities; investigate and determine causes of fires; collect, prepare and present evidence in court when required; prepare reports as assigned; develop and conduct fire prevention/fire investigation programs and presentations to various groups; assist Fire Department personnel in code interpretation, training and fire inspections; and perform

related duties as assigned. There is a strong need for public education and community outreach, preparation and pre-planning. This position would be responsible for these areas as well, which would ultimately make our city safer while protecting critical city infrastructure from fire through prevention programs as well as determining cause, origin and pursuing arsonists who vandalize and destroy infrastructure within our City. This position would not be assigned to the aforementioned POP Team, but would supplement the team, as it pertains to enforcement, when fire violations are encountered. (To include: arson, warming fires, illegal burning, etc.)

An additional idea to assist with possibly improving the quality of life in the City of Oroville would be to partner with the Hope Center as it relates to their established Home for the Holidays Program to possibly expand that program. This would be a program that would be funded by donations and donated funds would only be utilized for transportation. This transportation will allow the homeless within the City of Oroville to receive transportation to their home of record or the homes of a family member. Strict guidelines would be established to limit abuse of the program. Additionally, POP Team members would work together with local non-profit organizations (listed above) to identify potential candidates for this program. The Home for the Holidays program was implemented 2 years ago and has provided transportation for over 30 people with the return rate being less than 2. Staff would explore the options of placing a donation option onto the City website wherein citizens can donate to local non-profit organizations that assist individuals in need.

Due to the amount of shopping carts that are retrieved throughout the city, staff would like to propose that an ordinance be adopted that would require retail businesses, with shopping carts, to utilize locking shopping carts such as the system in place at the Wal Mart in Oroville. This would significantly reduce the number of carts that staff is required to collect around the city, only to be returned back to the business they were originally taken from. This locking shopping cart system is in place at a number of business within the city and this system has proven to be successful.

The City Works Program has been utilized within the City since late 2017. The program involves members of the Hope Center and is currently overseen by Larry Hayden. City Works is an important program that encompasses many benefits to the City of Oroville and to the Hope Center. The members of the City Works Program help our city by abating junk, trash and debris left on city properties, thus reducing blight. They also collect abandoned furniture and appliances that are left on city roadways, alley ways and sidewalks. They help by maintaining the landscape of city owned properties, clean up vacated illegal encampments, and clear/reduce fire hazards by clearing weeds from city properties.

The City Works members work as a team with Public Works and Code Enforcement. The program also allows members of the Hope Center to work towards regaining life skills, building self-confidence and a strong work ethic that they can be proud of and be compensated for. It should be noted none of the responsibilities listed above can be achieved without the funding of the City Works Program. Currently the Public Safety Department funds weed abatement in the amount of \$35,000.00 per year. This program is paid through that fund. The City Works Program currently operates with 3 workers and a supervisor. Last year the program operated approximately 20 weeks out of the year. The main idea for the success of this program is consistency. The people doing the work need consistency. As they move from living on the streets to living in a home, it is imperative that they have something they can count on or they would run the risk of losing ground and ending up living back on the street. Staff is requesting to increase the budgeted amount for this project to \$72,000.00 per year. This would allow for

a team of four (4) workers and a supervisor. For the requested amount, this team could work for 20 hours per week, for the entire year. This would provide the program and its participants with stability. It would also provide the city with a crew year-round that could assist with other issues during the winter, to include, clean up of downtown area or any areas identified by code enforcement.

FISCAL IMPACT

Fiscal impact dependent on which actions the council wishes to take.

RECOMMENDATION

Staff is making the following recommendations:

Authorize necessary budget amendments to fund and implement the following positions, including the purchase of vehicles, for a Problem Oriented Policing Team: one (1) Police Sergeant, two (2) Police Officers, one (1) Municipal Law Enforcement Officer and one (1) Fire Prevention Officer. (Accurate prices for associated vehicles would be brought back to council prior to purchasing)

Authorize the necessary budget amendment to increase staffing within the City Works Program and fund for the program year-round.

Provide staff with direction on moving forward with creating an ordinance requiring retail businesses, in the City of Oroville, to utilize locking shopping carts.

Provide staff with direction on moving forward with a program focused on assisting our homeless population, with transportation needs, to be reunited with family, and install a donation portal on the city website to assist in funding this program.

ATTACHMENTS

None



CITY OF OROVILLE STAFF REPORT

TO: MAYOR AND CITY COUNCIL MEMBERS

**FROM: JACKIE GLOVER, ASSISTANT CITY CLERK
BILL LAGRONE, CITY ADMINISTRATOR**

**RE: CITIZEN APPOINTMENTS TO THE OROVILLE PARKS COMMISSION,
HOUSING LOAN ADVISORY COMMITTEE AND SOUTHSIDE
COMMUNITY CENTER ADVISORY COMMITTEE**

DATE: OCTOBER 1, 2019

SUMMARY

City Council will consider and appoint citizens to the Oroville Parks Commission, Housing Loan Advisory Committee and Southside Community Center Advisory Committee

DISCUSSION

The Oroville Parks Commission currently has one (1) vacancy. This position has been vacant since June 30, 2019 and has been advertised since. To date the city has received only one (1) application for the open seat on the commission. This individual must live in the city limits and serves for a five-year term.

Kay Castro has submitted her application and qualifies based on her place of residence. If appointed she would serve a five-year term ending on June 30, 2024.

The Housing Loan Advisory Committee currently has one (1) vacancy. This position has been advertised all year long and has only received one (1) letter of interest. This individual must live in the city limits or own a business within the city limits and serve for a two-year term.

Jason McClure has submitted a letter of interest for serving on the commission and qualifies based on his place of residence. If appointed he would serve a two-year term ending on June 30, 2021.

The Southside Community Center Advisory Committee has two (2) vacancies. One for a South Oroville Resident and one for a Community Organization representative due to Randy Murphy moving out of the area. These individuals serve four-year terms.

Three individuals have applied for the South Oroville Resident position. All three applicants qualify based on their place of residence. Staff recommend selecting one applicant to serve on this committee for a four-year term expiring on June 30, 2023.

FISCAL IMPACT

None

RECOMMENDATION

Appoint Kay Castro to serve on the Oroville Parks Commission with her term ending on June 20, 2024; and appoint Jason McClure to the Housing Loan Advisory Committee with his term ending on June 30, 2021; and appoint one applicant to serve on the Southside Community Center Advisory Committee with term expiring on June 30, 2023.

ATTACHMENTS

Kay Castro Application

Letter – Jason McClure

Southside Community Center Advisory Committee Applications

RECEIVED

AUG 23 2019



CITY OF OROVILLE

APPLICATION FOR APPOINTMENT TO CITY COMMITTEE OR COMMISSION
 (Please Read Instructions)

RETURN TO: CITY CLERK'S OFFICE, 1735 MONTGOMERY STREET, OROVILLE, CA 95965

Completed applications are considered public records per Government Code §6252.

Name of committee/commission you are applying for:

Parks Commission

Note: If you are applying for more than one committee/commission, number in order of preference.

- | | |
|---|--|
| <input type="checkbox"/> Planning Commission | <input type="checkbox"/> Arts Commission |
| <input type="checkbox"/> Housing Loan Advisory Committee | <input type="checkbox"/> Economic Development Loan Advisory Committee |
| <input type="checkbox"/> Park Commission | <input type="checkbox"/> Southside Community Center Advisory Committee |
| <input type="checkbox"/> Arts, Cultural Entertainment District Advisory Committee | |
| <input type="checkbox"/> Mosquito Abatement District Committee | <input type="checkbox"/> Other: _____ |

APPLICANT INFORMATION

Name (print): Kay Castro

Residence Address: 1330 Huntoon St., #2, Oroville, CA 95965

Mailing Address (if different): 1084 Montgomery St., Oroville, CA 95965

Telephone: 303-718-2846 E-Mail Address: kaycastro2016@gmail.com

Are you a qualified elector** of the City? Yes ☒ No ☐

EMPLOYMENT INFORMATION

Occupation: Recruiter

Current Employer: Errand Solutions

Current Employer Address: 20 N. Wacker Dr., Chicago, IL 60606

Telephone: 602-579-0757

EXPERIENCE/BACKGROUND

(Additional information/resume may be provided on page 2 of this application)

Education: BS-Public Communications, MBA (finance emphasis)

Memberships of Organizations: Rotary, BCHS, First Congregational Church

Have you served on any committee/commission in the past? Yes ☒ No ☐

If yes, list committee/commission and dates served: Citizens Advisory - Current

Page 2 APPLICATIONS FOR APPOINTMENT TO CITY COMMITTEE OR COMMISSION

How did you hear about this recruitment? (Optional)

VERIFICATION

By signing this application, I certify that I am a registered voter in the City of Oroville.

Date: Aug. 21, 2019

Signature: _____

Please use this space for any other additional information that you would like to provide in support of your application.

Dear Oroville City Council Members,

I am a native of Oroville and have a vested interest in the city's well-being and success. I recently returned to Oroville and have the pleasure of living downtown. I am actively seeking opportunities to serve in my community where I can be of maximum benefit and contribute my skills. I am currently a member of the Citizens Advisory Committee and attend City Council meetings as often as I can.

I am observing many opportunities for synergy between the city's committees, organizations, and my other community volunteer efforts such as Rotary. Our parks are not only a recreational asset for our community but a physical ambassador of our community's strength in attracting people to move to our city. Safety in parks is paramount. Cleanliness and accessibility are also key components which need attention. My ability to discern multiple community views on similarities of the issues and common resolutions would be an asset to the Parks Commission.

I have over thirty-five years of experience in public relations, strategic marketing, branding, finance, writing, editing, recruiting, fundraising, management, public speaking and volunteer work. Currently, I am blessed to be able to work from home (or anywhere there is WiFi), for a variety of companies and individuals in recruiting, finance and company management.

I am a passionate international traveler and have recently experienced Peru, Belize, the Dominican Republic, and Europe. I enjoy volunteering in our community and helping others. I am very creative, thoughtful and have a great sense of humor.

I would bring a myriad of skills to this committee, including a desire for its success, and the ability to contribute my skills to creative solutions and to participate on a team to bring innovative ideas to Oroville.

Sincerely,

Kay Castro
303.718.2846
Residence Address: 1330 Huntoon St., Apt. #2, Oroville, CA 95965
Mailing Address: 1084 Montgomery St., Oroville, CA 95965
KayCastro2016@gmail.com

References available upon request.

Membership Organizations:
Oroville Sunrise Rotary, President Elect
First Congregational Church, Editor of "The Chimes"
Butte County Historical Society

Jackie Glover

From: Jason McClure <jasonmcclure37@gmail.com>
Sent: Thursday, August 29, 2019 9:08 AM
To: CityHall_CityClerk
Subject: Housing loan advisory

To whom it may concern

I am currently on the south side advisory committee and would also like to serve on the housing loan committee.

Thank you for your time
Jason McClure

Sent from my iPhone



11:12am

CITY OF OROVILLE

APPLICATION FOR APPOINTMENT TO CITY COMMITTEE OR COMMISSION
(Please Read Instructions)RETURN TO: CITY CLERK'S OFFICE, 1735 MONTGOMERY STREET, OROVILLE, CA 95965
Completed applications are considered public records per Government Code §6252.

Name of committee/commission you are applying for:

Note: If you are applying for more than one committee/commission, number in order of preference.

- | | |
|---|---|
| <input type="checkbox"/> Planning Commission | <input type="checkbox"/> Arts Commission |
| <input type="checkbox"/> Housing Loan Advisory Committee | <input type="checkbox"/> Economic Development Loan Advisory Committee |
| <input type="checkbox"/> Park Commission | <input checked="" type="checkbox"/> Southside Community Center Advisory Committee |
| <input type="checkbox"/> Arts, Cultural Entertainment District Advisory Committee | |
| <input type="checkbox"/> Mosquito Abatement District Committee | <input type="checkbox"/> Other: _____ |

APPLICANT INFORMATION

Name (print): Tammie A. Hills

Residence Address: 2446 Wyandotte Ave

Mailing Address (if different): _____

Telephone: 282-0000 E-Mail Address: _____

Are you a qualified elector** of the City? Yes ☒ No ☐

EMPLOYMENT INFORMATION

Occupation: Medical Assistant

Current Employer: Oroville Hospital

Current Employer Address: 2809 Olive Hwy

Telephone: 533-8500

EXPERIENCE/BACKGROUND

(Additional information/resume may be provided on page 2 of this application)

Education: High School

Memberships of Organizations: _____

Have you served on any committee/commission in the past? Yes ☐ No ☒

If yes, list committee/commission and dates served: _____

Page 2 APPLICATIONS FOR APPOINTMENT TO CITY COMMITTEE OR COMMISSION

How did you hear about this recruitment? (Optional)

Pastor Kevin Thompson**VERIFICATION**

By signing this application, I certify that I am a registered voter in the City of Oroville.

Date: 4-24-19Signature: 

Please use this space for any other additional information that you would like to provide in support of your application.



BASIC SUPPLEMENTAL INFORMATION QUESTIONNAIRE

This supplemental questionnaire is a required part of your application package and must be returned along with your "Application for Appointment" to the City Clerk's Office. If you have any questions, please call the City Clerk's Office at 538-2535.

1. Why would you want to serve on the Committee/Commission?

It is very important to me to be able to help improve our community

2. What unique qualifications and/or skills would you bring to the Committee/Commission?

I've lived in Oroville all my life. I have formed relationships in my community. I am very concerned about decisions that are made concerning our community.

3. Do you have any conflicts or potential conflicts that would make you ineligible to vote on any items? How often do you think these conflicts might arise?

N/A

Date: 4-24-19

Signature: _____

APR 23 2019



CITY OF OROVILLE

APPLICATION FOR APPOINTMENT TO CITY COMMITTEE OR COMMISSION
(Please Read Instructions)

RETURN TO: CITY CLERK'S OFFICE, 1735 MONTGOMERY STREET, OROVILLE, CA 95965
Completed applications are considered public records per Government Code §6252.

Name of committee/commission you are applying for:

SOUTHSIDE OROVILLE COMMUNITY CENTER ADVISORY COMMITTEE

Note: If you are applying for more than one committee/commission, number in order of preference.

- | | |
|---|---|
| <input type="checkbox"/> Planning Commission | <input type="checkbox"/> Arts Commission |
| <input type="checkbox"/> Housing Loan Advisory Committee | <input type="checkbox"/> Economic Development Loan Advisory Committee |
| <input type="checkbox"/> Park Commission | <input checked="" type="checkbox"/> Southside Community Center Advisory Committee |
| <input type="checkbox"/> Arts, Cultural Entertainment District Advisory Committee | |
| <input type="checkbox"/> Mosquito Abatement District Committee | <input type="checkbox"/> Other: _____ |

APPLICANT INFORMATION

Name (print): MICHELLE PARKINSON

Residence Address: 2821 WYANDOTTE AVE. OROVILLE, CA. 95966

Mailing Address (if different): _____

Telephone: (530) 854-9051 E-Mail Address: Michelle.parkinson96@gmail.com

Are you a qualified elector** of the City? Yes ☐ No ☒

EMPLOYMENT INFORMATION

Occupation: RETIRED

Current Employer: _____

Current Employer Address: _____

Telephone: _____

EXPERIENCE/BACKGROUND

(Additional information/resume may be provided on page 2 of this application)

Education: CALIFORNIA STATE UNIVERSITY, CHICO (2 YRS.)

Memberships of Organizations: _____

Have you served on any committee/commission in the past? Yes ☐ No ☒

If yes, list committee/commission and dates served: _____

Page 2 APPLICATIONS FOR APPOINTMENT TO CITY COMMITTEE OR COMMISSION

How did you hear about this recruitment? (Optional)

COMMUNITY MEMBER TOLD ME ABOUT IT.

VERIFICATION

By signing this application, I certify that I am a registered voter in the City of Oroville.

Date: 4/23/19

Signature:

Michael Parker



Please use this space for any other additional information that you would like to provide in support of your application.



BASIC SUPPLEMENTAL INFORMATION QUESTIONNAIRE

This supplemental questionnaire is a required part of your application package and must be returned along with your "Application for Appointment" to the City Clerk's Office. If you have any questions, please call the City Clerk's Office at 538-2535.

1. Why would you want to serve on the Committee/Commission?

BEING A MEMBER OF SOUTH OROVILLE FOR 10 YEARS I HAVE SEEN A LOT. I BELIEVE SOUTHSIDE COMMUNITY CENTER HAS A LOT TO OFFER & I WOULD LIKE TO HELP.

2. What unique qualifications and/or skills would you bring to the Committee/Commission?

I AM A VERY SOCIAL PERSON, I ENJOY CONNECTING WITH MY COMMUNITY. WHETHER IT BE WALKING THE STREETS TO HAND OUT INFORMATION, FEEDING THE LESS FORTUNATE OR JUST LENDING A HELPING HAND, I ENJOY IT ALL & WOULD BE WILLING TO CONTRIBUTE.

3. Do you have any conflicts or potential conflicts that would make you ineligible to vote on any items? How often do you think these conflicts might arise?

I DON'T HAVE ANY CONFLICTS THAT I KNOW OF.

Date: 4/23/19

Signature: Michelle Polk



RECEIVED Item 8.

APR 24 2019

12:11 pm

CITY OF OROVILLE

APPLICATION FOR APPOINTMENT TO CITY COMMITTEE OR COMMISSION
(Please Read Instructions)

RETURN TO: CITY CLERK'S OFFICE, 1735 MONTGOMERY STREET, OROVILLE, CA 95965
Completed applications are considered public records per Government Code §6252.

Name of committee/commission you are applying for:

SOCC Advisory Committee

Note: If you are applying for more than one committee/commission, number in order of preference.

- | | |
|---|---|
| <input type="checkbox"/> Planning Commission | <input type="checkbox"/> Arts Commission |
| <input type="checkbox"/> Housing Loan Advisory Committee | <input type="checkbox"/> Economic Development Loan Advisory Committee |
| <input type="checkbox"/> Park Commission | <input checked="" type="checkbox"/> Southside Community Center Advisory Committee |
| <input type="checkbox"/> Arts, Cultural Entertainment District Advisory Committee | |
| <input type="checkbox"/> Mosquito Abatement District Committee | <input type="checkbox"/> Other: _____ |

APPLICANT INFORMATION

Name (print): **Duane Jones**

Residence Address: **3351 Burlington Avenue (Oroville, CA) 95966**

Mailing Address (if different): _____

Telephone: **(530) 370-1379** E-Mail Address: **godsway59@yahoo.com**

Are you a qualified elector** of the City? Yes ☐ No ☒

EMPLOYMENT INFORMATION

Occupation: **Self-Employed**

Current Employer: **DND Janitorial**

Current Employer Address: **3351 Burlington Avenue (Oroville, CA) 95966**

Telephone: **(530) 370 - 1379**

EXPERIENCE/BACKGROUND

(Additional information/resume may be provided on page 2 of this application)

Education: **California State University, Fresno**

Memberships of Organizations: **NAACP, American Boxing Assoc.,**

Have you served on any committee/commission in the past? Yes ☒ No ☐

If yes, list committee/commission and dates served: **Please see next page**

Page 2 APPLICATIONS FOR APPOINTMENT TO CITY COMMITTEE OR COMMISSION

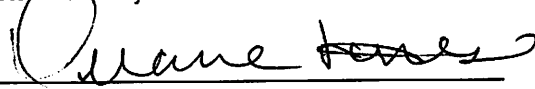
How did you hear about this recruitment? (Optional)

Word of mouth

VERIFICATION

By signing this application, I certify that I am a registered voter in the City of Oroville.

Date: 4/23/19

Signature: 

Please use this space for any other additional information that you would like to provide in support of your application.

Other Membership organizations include, Local 318 Union & the California Vendors Association.

My Committee experience includes:

NAACP (Sargent of Arms) (2017 & 2018)

California Vendors Association (Manager) (2002-2014)



BASIC SUPPLEMENTAL INFORMATION QUESTIONNAIRE

This supplemental questionnaire is a required part of your application package and must be returned along with your "Application for Appointment" to the City Clerk's Office. If you have any questions, please call the City Clerk's Office at 538-2535.

1. Why would you want to serve on the Committee/Commission?

Help my community in all areas
that I can

2. What unique qualifications and/or skills would you bring to the Committee/Commission?

communication - well with people and
leadership as well following
Instructions

3. Do you have any conflicts or potential conflicts that would make you ineligible to vote on any items? How often do you think these conflicts might arise?

NO

Date:

4/23/19

Signature:

Quave Jones

September 6, 2019

To: Mayors, City Managers and City Clerks

From: Dan Carrigg, Deputy Executive Director and Legislative Director, League of California Cities

Re: League's 2019 Annual Conference Resolutions Packet

Please find an enclosed copy of the Resolutions Packet for the League of California Cities' 2019 Annual Conference, October 16-18 in Long Beach. The conference announcement has previously been sent to all cities and we hope that you and your colleagues will be able to join us. More information about the conference is available on the League's Web site at www.cacities.org/ac.

Two resolutions have been submitted. The attached comprehensive packet contains the text of the proposed resolutions, background materials supplied by the sponsors, supporting letters from cities and city officials, and League staff analyses for each resolution. The packet also includes detailed information on the League's resolution process including meeting locations and times when the resolutions will be considered. A copy of the resolution packet is posted on the League's website for your convenience: www.cacities.org/resolutions.

Resolutions:

- Resolution 1 - Amendment to Rule 20A –Calls upon the California Public Utilities Commission (CPUC) to expand its Rule 20A program for undergrounding overhead utilities to include projects in high fire hazard severity zones.
- Resolution 2 - International Transboundary Pollution Flows – Calls upon the state and the federal governments of the U.S. and Mexico to address water quality issues resulting from transboundary flows from Mexico's Tijuana River into the United States.

Closing Luncheon/General Assembly - Friday, October 18, 12:30 p.m., Long Beach Convention Center.

Voting Delegates: In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity. If your city has not already done so, Please complete the Voting Delegate form and return it to the League's office no later than Friday, October 4. This will allow us time to establish voting delegate/alternate records prior to the conference.

We encourage each city council to consider the resolutions and to determine a city position so that your voting delegate can represent your city's position on the resolution. Should you have any questions regarding the attached material, please contact Carly Shelby cshelby@cacities.org 916-658-8279 or Meg Desmond mdesmond@cacities.org 916-658-8224 at the League office.



*Annual Conference
Resolutions Packet*

2019 Annual Conference Resolutions



*Long Beach, California
October 16 – 18, 2019*

INFORMATION AND PROCEDURES

RESOLUTIONS CONTAINED IN THIS PACKET: The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, two resolutions have been introduced for consideration at the Annual Conference and referred to League policy committees.

POLICY COMMITTEES: Two policy committees will meet at the Annual Conference to consider and take action on the resolutions referred to them. The committees are: Environmental Quality and Transportation, Communication & Public Works. The committees will meet from 9:00 – 11:00 a.m. on Wednesday, October 16, at the Hyatt Regency Long Beach. The sponsors of the resolutions have been notified of the time and location of the meeting.

GENERAL RESOLUTIONS COMMITTEE: This committee will meet at 1:00 p.m. on Thursday, October 17, at the Hyatt Regency Long Beach, to consider the reports of the policy committees regarding the resolutions. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president. Please check in at the registration desk for room location.

ANNUAL LUNCHEON/BUSINESS MEETING/GENERAL ASSEMBLY: This meeting will be held at 12:30 p.m. on Friday, October 18, at the Long Beach Convention Center.

PETITIONED RESOLUTIONS: For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Meeting of the General Assembly. This year, that deadline is 12:30 p.m., Thursday, October 17. Resolutions can be viewed on the League's Web site: www.cacities.org/resolutions.

Any questions concerning the resolutions procedures may be directed to Carly Shelby cshelby@cacities.org 916-658-8279 or Nick Romo nromo@cacities.org 916-658-8232 at the League office.

GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS

Policy development is a vital and ongoing process within the League. The principal means for deciding policy on the important issues facing cities is through the League's seven standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop League policy. Resolutions should adhere to the following criteria.

Guidelines for Annual Conference Resolutions

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing League policy.
4. The resolution should be directed at achieving one of the following objectives:
 - (a) Focus public or media attention on an issue of major importance to cities.
 - (b) Establish a new direction for League policy by establishing general principles around which more detailed policies may be developed by policy committees and the board of directors.
 - (c) Consider important issues not adequately addressed by the policy committees and board of directors.
 - (d) Amend the League bylaws (requires 2/3 vote at General Assembly).

LOCATION OF MEETINGS

Policy Committee Meetings

Wednesday, October 16, 9:00 – 11:00 a.m.

Hyatt Regency Long Beach

200 South Pine Avenue, Long Beach

The following committees will be meeting:

1. Environmental Quality 10:00 - 11:00 a.m.
2. Transportation, Communication & Public Works 9:00 - 10:00 a.m.

General Resolutions Committee

Thursday, October 17, 1:00 p.m.

Hyatt Regency Long Beach

200 South Pine Avenue, Long Beach

Annual Business Meeting and General Assembly Luncheon

Friday, October 18, 12:30 p.m.

Long Beach Convention Center

300 East Ocean Boulevard, Long Beach

KEY TO ACTIONS TAKEN ON RESOLUTIONS

Resolutions have been grouped by policy committees to which they have been assigned.

Number	Key Word Index	Reviewing Body Action		
		1	2	3
		1 - Policy Committee Recommendation to General Resolutions Committee		
		2 - General Resolutions Committee		
		3 - General Assembly		

ENVIRONMENTAL QUALITY POLICY COMMITTEE

		1	2	3
1	Amendment to Rule 20A			
2	International Transboundary Pollution Flows			

TRANSPORTATION, COMMUNICATION & PUBLIC WORKS POLICY COMMITTEE

		1	2	3
1	Amendment to Rule 20A			

Information pertaining to the Annual Conference Resolutions will also be posted on each committee's page on the League website: www.cacities.org. The entire Resolutions Packet is posted at: www.cacities.org/resolutions.

KEY TO ACTIONS TAKEN ON RESOLUTIONS *(Continued)*

Resolutions have been grouped by policy committees to which they have been assigned.

KEY TO REVIEWING BODIES

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

KEY TO ACTIONS TAKEN

- | | |
|-----|---|
| A | Approve |
| D | Disapprove |
| N | No Action |
| R | Refer to appropriate policy committee for study |
| a | Amend+ |
| Aa | Approve as amended+ |
| Aaa | Approve with additional amendment(s)+ |
| Ra | Refer as amended to appropriate policy committee for study+ |
| Raa | Additional amendments and refer+ |
| Da | Amend (for clarity or brevity) and Disapprove+ |
| Na | Amend (for clarity or brevity) and take No Action+ |
| W | Withdrawn by Sponsor |

ACTION FOOTNOTES

* Subject matter covered in another resolution

** Existing League policy

*** Local authority presently exists

Procedural Note:

The League of California Cities resolution process at the Annual Conference is guided by League Bylaws. A helpful explanation of this process can be found on the League's website by clicking on this link: [Guidelines for the Annual Conference Resolutions Process.](#)

REGULAR RESOLUTIONS

Policy Committee Action	General Resolutions Committee Action	Calendar
Approve	Approve	Consent Calendar ¹
Approve	Disapprove or Refer	Regular Calendar ²
Disapprove or Refer	Approve	Regular Calendar
Disapprove or Refer	Disapprove or Refer	Does not proceed to General Assembly

PETITION RESOLUTIONS

Policy Committee Action	General Resolutions Committee Action	Calendar
Not Heard in Policy Committee	Approve	Consent Calendar
Not Heard in Policy Committee	Disapprove or Refer	Regular Calendar
Not Heard in Policy Committee	Disqualified per Bylaws Art. VI	Does not proceed to General Assembly

Resolutions

- Submitted 60 days prior to conference *Bylaws Article VI, Sec. 4(a)*
- Signatures of at least 5 supporting cities or city officials submitted with the proposed resolution *Bylaws Article VI, Sec. 2*
- Assigned to policy committee(s) by League president *Bylaws Article VI, Sec. 4(b)(i)*
- Heard in policy committee(s) and report recommendation, if any, to GRC *Bylaws Article VI, Sec. 4(b)(ii)*
- Heard in GRC
 - Approved by policy committee(s) and GRC, goes on to General Assembly on consent calendar *2006 General Assembly Resolution Sec. 2(C)*
 - If amended/approved by all policy committee(s) to which it has been referred and disapproved by GRC, then goes on to General Assembly on the regular calendar. If not all policy committees to which it has been referred recommend amendment or approval, and the GRC disapproves or refers the resolution, the resolution does not move to the General Assembly *2006 General Assembly Resolution Sec. 2(A),(C); 1998 General Assembly Resolution, 1st Resolved Clause*
 - If disapproved by all policy committees to which it has been referred and disapproved by the GRC, resolution does not move to the General Assembly *2006 General Assembly Resolution Sec. 2(C)*
- Heard in General Assembly

¹ The consent calendar should only be used for resolutions where there is unanimity between the policy committees and the GRC that a resolution should be approved by the General Assembly, and therefore, it can be concluded that there will be less desire to debate the resolution on the floor.

² The regular calendar is for resolutions for which there is a difference in recommendations between the policy committees and the GRC.

Petitioned Resolutions

- Submitted by voting delegate *Bylaws Article VI, Sec. 5 (a)*
- Must be signed by voting delegates representing 10% of the member cities *Bylaws Article VI, Sec. 5 (c)*
- Signatures confirmed by League staff
- Submitted to the League president for confirmation 24 hours before the beginning of the General Assembly. *Bylaws Article VI, Sec. 5 (d)*
- Petition to be reviewed by Parliamentarian for required signatures of voting delegates and for form and substance *Bylaws Article VI, Sec. 5(e)*
- Parliamentarian's report is presented to chair of GRC
- Will be heard at GRC for action (GRC cannot amend but may recommend by a majority vote to the GA technical or clarifying amendments) *2006 General Assembly Resolution sec. 6(A), (B)*
- GRC may disqualify if:
 - Non-germane to city issues
 - Identical or substantially similar in substance to a resolution already under consideration *Bylaws Article VI, Sec. 5(e), (f)*
- Heard in General Assembly
 - General Assembly will consider the resolution following the other resolutions³ *Bylaws Article VI, Sec. 5(g)*
 - Substantive amendments that change the intent of the petitioned resolution may only be adopted by the GA *2006 General Assembly Resolution sec. 6(C)*

Voting Procedure in the General Assembly

Consent Calendar: Resolution approved by Policy Committee(s) and GRC. Petitioned resolution approved by GRC)

- GRC Chair will be asked to give the report from the GRC and will ask for adoption of the GRC's recommendations
- Ask delegates if there is a desire to call out a resolution for discussion
- A voting delegate may make a motion to remove a resolution from the consent calendar for discussion
- If a motion is made to pull a resolution, the General Assembly votes on whether to pull the resolution from the consent calendar.
- If a majority of the General Assembly votes to pull the resolution, set "called out" reso(s) aside. If the motion fails, the resolution remains on the consent calendar.
- If reso(s) not called out, or after 'called out' reso is set aside, then ask for vote on remaining resos left on consent
- Move on to debate on reso(s) called out
- After debate, a vote is taken
- Voting delegates vote on resolutions by raising their voting cards.⁴

³ Petitioned Resolutions on the Consent Calendar will be placed after all General Resolutions on the Consent Calendar. Petitioned Resolutions on the Regular Calendar will be placed after all General Resolutions on the Regular Calendar.

⁴ Amendments to League bylaws require 2/3 vote

Regular Calendar: Regular resolutions approved by Policy Committee(s)⁵, and GRC recommends disapproval or referral; Regular resolutions disapproved or referred by Policy Committee(s)⁶ and GRC approves; Petitioned resolutions disapproved or referred by the GRC.

- Open the floor to determine if a voting delegate wishes to debate a resolution on the regular calendar.
- If no voting delegate requests a debate on the resolution, a vote to ratify the recommendation of the GRC on the resolution is taken.
- Upon a motion by a voting delegate to debate a resolution, a debate shall be held if approved by a majority vote of the General Assembly. If a majority of the General Assembly to debate the resolution is not achieved, then a vote shall be taken on whether to ratify the GRC's recommendation. If a majority of the General Assembly approves of the motion to debate the resolution, debate will occur. After debate on the resolution, a vote is taken based upon the substitute motion that was made, if any, or on the question of ratifying the GRC's recommendation.
- Voting delegates vote by raising their voting cards.

⁵ Applies in the instance where the GRC recommendation of disapproval or refer is counter to the recommendations of the policy committees.

⁶ Applies in the instance where the GRC recommendation to approve is counter to the recommendations of the policy committees.

1. RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES CALLING ON THE CALIFORNIA PUBLIC UTILITIES COMMISSION TO AMEND RULE 20A TO ADD PROJECTS IN VERY HIGH FIRE HAZARD SEVERITY ZONES TO THE LIST OF ELIGIBILITY CRITERIA AND TO INCREASE FUNDING ALLOCATIONS FOR RULE 20A PROJECTS

Source: City of Rancho Palos Verdes

Concurrence of five or more cities/city officials

Cities: City of Hidden Hills, City of La Cañada Flintridge, City of Laguna Beach, City of Lakeport, City of Malibu, City of Moorpark, City of Nevada City, City of Palos Verdes Estates, City of Rolling Hills Estates, City of Rolling Hills, City of Ventura

Referred to: Environmental Quality Policy Committee; Transportation, Communications, and Public Works Policy Committee

WHEREAS, the California Public Utilities Commission regulates the undergrounding conversion of overhead utilities under Electric Tariff Rule 20 and;

WHEREAS, conversion projects deemed to have a public benefit are eligible to be funded by ratepayers under Rule 20A; and

WHEREAS, the criteria under Rule 20A largely restricts eligible projects to those along streets with high volumes of public traffic; and

WHEREAS, the cost of undergrounding projects that do not meet Rule 20A criteria is left mostly or entirely to property owners under other parts of Rule 20; and

WHEREAS, California is experiencing fire seasons of worsening severity; and

WHEREAS, undergrounding overhead utilities that can spark brush fires is an important tool in preventing them and offers a public benefit; and

WHEREAS, brush fires are not restricted to starting near streets with high volumes of public traffic; and

WHEREAS, expanding Rule 20A criteria to include Very High Fire Hazard Severity Zones would facilitate undergrounding projects that would help prevent fires; and

WHEREAS, expanding Rule 20A criteria as described above and increasing funding allocations for Rule 20A projects would lead to more undergrounding in Very High Fire Hazard Severity Zones; and now therefore let it be,

RESOLVED that the League of California Cities calls on the California Public Utilities Commission to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility and to increase funding allocations for Rule 20A projects.

Background Information on Resolution No. 1

Source: City of Rancho Palos Verdes

Background:

Rancho Palos Verdes is the most populated California city to have 90 percent or more of residents living in a Cal Fire-designated Very High Fire Hazard Severity Zone. Over the years, the Palos Verdes Peninsula has seen numerous brush fires that were determined to be caused by electrical utility equipment.

Across the state, some of the most destructive and deadly wildfires were sparked by power equipment. But when it comes to undergrounding overhead utilities, fire safety is not taken into account when considering using ratepayer funds to pay for these projects under California's Electric Tariff Rule 20 program. The program was largely intended to address visual blight when it was implemented in 1967. Under Rule 20A, utilities must allocate ratepayer funds to undergrounding conversion projects chosen by local governments that have a public benefit and meet one or more of the following criteria:

- Eliminate an unusually heavy concentration of overhead lines;
- Involve a street or road with a high volume of public traffic;
- Benefit a civic or public recreation area or area of unusual scenic interest; and,
- Be listed as an arterial street or major collector as defined in the Governor's Office of Planning and Research (OPR) Guidelines.

As we know, brush fires are not restricted to erupting in these limited areas. California's fire season has worsened in severity in recent years, claiming dozens of lives and destroying tens of thousands of structures in 2018 alone.

Excluding fire safety from Rule 20A eligibility criteria puts the task of undergrounding power lines in Very High Fire Hazard Severity Zones squarely on property owners who are proactive, willing and able to foot the bill.

The proposed resolution calls on the California Public Utilities Commission to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the proposed resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

If adopted, utilities will be incentivized to prioritize undergrounding projects that could potentially save millions of dollars and many lives.

League of California Cities Staff Analysis on Resolution No. 1

Staff: Rony Berdugo, Legislative Representative, Derek Dolfie, Legislative Representative, Caroline Cirrincione, Legislative Policy Analyst
Committees: Environmental Quality; Transportation, Communications, and Public Works

Summary:

This Resolution, in response to intensifying fire seasons and hazards associated with exposed energized utility lines, proposes that the League of California Cities (League) call upon the California Public Utilities Commission (CPUC) to amend the Rule 20A program by expanding the criteria for undergrounding overhead utilities to include projects in Very High Fire Hazard Severity Zones (VHFHSZ). This Resolution also proposes that the League call upon the CPUC to increase utilities' funding allocations for Rule 20A projects.

Background

California Wildfires and Utilities

Over the last several years, the increasing severity and frequency of California's wildfires have prompted state and local governments to seek urgent prevention and mitigation actions. Record breaking wildfires in Northern and Southern California in both 2017 and 2018 have caused destruction and loss of life. This severe fire trend has local officials seeking solutions to combat what is now a year-round fire season exacerbated by years of drought, intense weather patterns, untamed vegetation and global warming.

These conditions create a dangerous catalyst for wildfires caused by utilities as extreme wind and weather events make downed power lines more of a risk. In response to recent catastrophic wildfires, Governor Newsom established a Strike Force tasked with developing a "comprehensive roadmap" to address issues related to wildfires, climate change, and utilities. The Strike Force report acknowledges that measures to harden the electrical grid are critical to wildfire risk management. A key utility hardening strategy: undergrounding lines in extreme high-fire areas.

Governor Newsom's Wildfire Strike Force program report concludes, "It's not a question of "if" wildfire will strike, but "when."

Very High Fire Hazard Severity Zones

This Resolution seeks to expand the undergrounding of overhead utility lines in VHFHSZ. California Government Code Section 51178 requires the Director of the California Department of Forestry and Fire Protection (CalFIRE) to identify areas in the state as VHFHSZ based on the potential fire hazard in those areas. VHFHSZ are determined based on fuel loading, slope, fire weather, and other relevant factors. These zones are in both local responsibility areas and state responsibility areas. Maps of the statewide and county by county VHFHSZ can be found here.¹

¹ <https://osfm.fire.ca.gov/divisions/wildfire-prevention-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/>

More than 25 million acres of California wildlands are classified under very high or extreme fire threat. Approximately 25 percent of the state's population, 11 million people, live in those high-risk areas. Additionally, over 350,000 Californians live in cities that are nearly encompassed within Cal Fire's maps of VHFHSZ. Similar to the proponents of this Resolution, City of Rancho Palos Verdes, over 75 communities have 90 percent or more of residents living in a VHFHSZ.

CPUC Rule 20 Program

The CPUC's Rule 20 program lays out the guidelines and procedures for converting overhead electric and telecommunication facilities to underground electric facilities. Rule 20 funding and criteria is provided at four levels. Levels A, B, and C, reflect progressively diminishing ratepayer funding for undergrounding projects. Recently added Rule 20D is a relatively new program that is specific to San Diego Gas and Electric (SDG&E), which was created in response to the destructive 2007 wildfires. Each of these levels will be discussed below:

Rule 20A

The first California overhead conversion program, Rule 20A, was created in 1967 under then Governor Ronald Reagan. The program was created to provide a consistent and structured means of undergrounding utility lines throughout the state with costs covered broadly by utility ratepayers.

Each year, Investor Owned Utilities (IOUs) propose their Rule 20A allocation amounts to the CPUC during annual general rate case proceedings. In this process, IOUs propose revised utility customer rates based on expected service costs, new energy procurement and projects for the following year, including Rule 20 allocations. The CPUC then reviews, amends, and approves IOU rates. Currently, the cumulative budgeted amount for Rule 20A for Pacific Gas and Electric (PG&E), Southern California Edison (SCE), and San Diego Gas and Electric (SDG&E) totals around \$95.7 million.

The funding set aside by IOUs for Rule 20A is allocated to local governments through a credit system, with each credit holding a value to be used solely for the costs of an undergrounding project. The credit system was created so that local governments and IOUs can complete undergrounding projects without municipal financing. Through Rule 20A, municipalities that have developed and received city council approval for an undergrounding plan receive annual credits from the IOU in their service area. At the last count by the CPUC, over 500 local governments (cities and counties) participate in the credit system.

While these credits have no inherent monetary value, they can be traded in or banked for the conversion of overhead lines. Municipalities can choose to accumulate their credits until their credit balance is sufficient to cover these conversion projects, or choose to borrow future undergrounding allocations for a period of up to five years. Once the cumulative balance of credits is sufficient to cover the cost of a conversion project, the municipality and the utility can move forward with the undergrounding. All of the planning, design, and construction is performed by the participating utility. Upon the completion of an undergrounding project, the utility is compensated through the local government's Rule 20A credits.

At the outset of the program, the amount of allocated credits were determined by a formula which factored in the number of utility meters within a municipality in comparison to the utilities' service territory. However, in recent years the formula has changed. Credit allocations for IOUs, except for PG&E, are now determined based on the allocation a city or county received in 1990 and is then adjusted for the following factors:

- 50% of the *change from the 1990* total budgeted amount is allocated for the ratio of the number of overhead meters in any city or unincorporated area to the total system overhead meters; and
- 50% of the *change from the 1990* total budgeted amount is allocated for the ratio of the number of meters (which includes older homes that have overhead services, and newer homes with completely underground services) in any city or the unincorporated area to the total system meters.

As noted, PG&E has a different funding formula for their Rule 20A credit allocations as they are not tied to the 1990 base allocation. Prior to 2011, PG&E was allocating approximately five to six percent of its revenue to the Rule 20A program. The CPUC decided in 2011 that PG&E's Rule 20A allocations should be reduced by almost half in an effort to decrease the growing accumulation of credits amongst local governments. Since 2011, PG&E's annual allocations for Rule 20A have been around \$41.3 million annually, which is between two and three percent of their total revenue.

Criteria for Rule 20A Projects

For an undergrounding project to qualify for the Rule 20A program, there are several criteria that need to be met. The project must have a public benefit and:

1. Eliminate an unusually heavy concentration of overhead lines
2. Involve a street or road with a high volume of public traffic
3. Benefit a civic or public recreation area or area of unusual scenic interest,
4. Be listed as an arterial street or major collector as defined in the Governor's Office of Planning and Research (OPR) Guidelines

Notably, fire safety is excluded from the list of criteria that favors aesthetic and other public safety projects.

Rule 20A Credit System Imbalance Threatens Program Effectiveness

Allocations are made by utilities each year for Rule 20A credits. These current budget allocations total \$95.7 million a year. Currently, the cumulative balance of credits throughout the state totals over \$1 billion dollars. The Rule 20A cumulative balances aggregated by region can be found [here](#).²

² Program Review, California Overhead Conversion Program, Rule 20A for Years 2011-2015, "The Billion Dollar Risk," California Public Utilities Commission.
[https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Organization/Divisions/Policy_and_Planning/PPD_Work_Products_\(2014_forward\)\(1\)/PPD_Rule_20-A.pdf](https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Organization/Divisions/Policy_and_Planning/PPD_Work_Products_(2014_forward)(1)/PPD_Rule_20-A.pdf)

Note: The existing credit allocation formulas do not consider a municipality's need or plans for overhead conversion projects, resulting in large credit balances in some jurisdictions.

Cities and counties are, however, able to trade or sell unallocated Rule 20A credits if they will not be used to fund local undergrounding projects. There have been several cases where one agency has sold their unused credits, often for less than the full dollar value of the credits themselves to another agency.

Rule 20B

Rule 20B projects are those that do not fit the Rule 20A criteria, but do, however, involve both sides of the street for at least 600 feet. These projects are typically done in conjunction with larger developments and are mostly paid for by the developer or applicant. Additionally, the applicant is responsible for the installation.

Rule 20C

Rule 20C projects are usually small projects that involve property owners. The majority of the cost is usually borne by the applicants. Rule 20C applies when the project does not qualify for either Rule 20A or Rule 20B.

Rule 20D--Wildfire Mitigation Undergrounding Program

Rule 20D was approved by the CPUC in January of 2014 and only applies to SDG&E. The Rule 20D program was established largely in response to the destructive wildfires that occurred in San Diego in 2007 as a wildfire mitigation undergrounding program. According to SDG&E, the objective of the Rule 20D undergrounding is exclusively for fire hardening as opposed to aesthetics. The program is limited in scope and is restricted to communities in SDG&E's Fire Threat Zone (now referred to as the High Fire Threat District or HFTD). As of this time, the program has yet to yield any projects and no projects are currently planned.

For an undergrounding project to qualify for the Rule 20D program, a minimum of three of the following criteria must be met. The project must be near, within, or impactful to:

- Critical electric infrastructure
- Remaining useful life of electric infrastructure
- Exposure to vegetation or tree contact
- Density and proximity of fuel
- Critical surrounding non-electric assets (including structures and sensitive environmental areas)
- Service to public agencies
- Accessibility for firefighters

Similar to Rule 20A, SDG&E must allocate funding each year through their general rate case proceedings to Rule 20D to be approved by the CPUC. This funding is separate from the allocations SDG&E makes for Rule 20A. However, the process of distributing this funding to localities is different. The amount of funding allocated to each city and county for Rule 20D is based on the ratio of the number of miles of overhead lines in SDG&E Fire Threat Zones in a city or county to the total miles of SDG&E overhead lines in the entire SDG&E fire zone. The

Rule 20D program is administered by the utility consistent with the existing reporting, engineering, accounting, and management practices for Rule 20A.

The Committee may want to consider whether Rule 20D should instead be expanded, adapted, or further utilized to support funding for overhead conversions within VHFHSZ throughout the state.

Fiscal Impact:

The costs to the State associated with this Resolution will be related to the staff and programmatic costs to the CPUC to take the necessary measures to consider and adopt changes to Rule 20A to include projects in VHFHSZ to the list of criteria for eligibility.

This Resolution calls for an unspecified increase in funding for Rule 20A projects, inferring that portions of increased funds will go towards newly eligible high fire hazard zones. While the Resolution does not request a specific amount be allocated, it can be assumed that these increased costs will be supported by utility ratepayers. According to the CPUC, the annual allocations towards Rule 20A are \$95.7 million.

The CPUC currently reports a cumulative credit surplus valued at roughly \$1 billion that in various regions, given the approval of expanded eligibility called for by this Resolution, could be used to supplement and reduce the level of new dollars needed to make a significant impact in VHFHSZ. The CPUC follows that overhead conversion projects range from \$93,000 per mile for rural construction to \$5 million per mile for urban construction.

The Resolution states that “California is experiencing fire seasons of worsening severity” which is supported by not only the tremendous loss of property and life from recent wildfires, but also in the rising costs associated with clean up, recovery, and other economic losses with high estimates in the hundreds of billions of dollars.

The Committee may wish to consider the costs associated with undergrounding utility lines in relation to the costs associated with past wildfires and wildfires to come.

Comments:

CPUC Currently Exploring Revisions to Rule 20

In May 2017, the CPUC issued an Order Instituting Rulemaking to Consider Revisions to Electric Rule 20 and Related Matters. The CPUC will primarily focus on revisions to Rule 20A but may make conforming changes to other parts of Rule 20. The League is a party in these proceedings will provide comments.

Beyond Rule 20A: Additional Options for Funding Undergrounding Projects

There are various ways in which cities can generate funding for undergrounding projects that fall outside of the scope of Rule 20A. At the local level, cities can choose to forgo the Rule 20A process and opt to use their own General Fund money for undergrounding. Other options are also discussed below:

Rule 20D Expansion

The City of Berkeley in a 2018 study titled “Conceptual Study for Undergrounding Utility Wires in Berkeley,” found that the city could possibly qualify for Rule 20D funding if they actively pursued this opportunity in partnership with PG&E and the CPUC.

One of the study’s recommendations is to advocate for release of 20D funds (now earmarked exclusively for SDG&E) to be used for more aggressive fire hardening techniques for above-ground utility poles and equipment, for undergrounding power lines, and for more aggressive utility pole and vegetation management practices in the Very High Hazard Fire Zone within Berkeley’s city limits.

As an alternative to changing the criteria for Rule 20A, the Committee may wish to consider whether there is the opportunity to advocate for the expansion of Rule 20D funding more broadly, expanding its reach to all IOU territories.

Franchise Surcharge Fees

Aside from Rule 20 allocations, cities can generate funding for undergrounding through franchise fee surcharges. For example, SDG&E currently operates under a 50-year City franchise that was granted in 1970. Under the franchises approved by the San Diego City Council in December 1970, SDG&E agreed to pay a franchise fee to the City equivalent to 3% of its gross receipts from the sales of both natural gas and electricity for 30 years.

These fees were renegotiated in 2000 and in 2001 an agreement was between the City of San Diego, SDG&E, and the CPUC to extend the existing franchise fee to include revenues collected from surcharges. SDG&E requested an increase of 3.88% to its existing electric franchise fee surcharge. The bulk, 3.53% of this increase is to be used for underground conversion of overhead electric wires.

Based on SDG&E's revenue projections, the increase would result in an additional surcharge revenue amount of approximately \$36.5 million per year. SDG&E estimates that this would create a monthly increase of approximately \$3.00 to a typical residential customer's electric bill. These surcharge revenues would pay for additional undergrounding projects including those that do not meet the Rule 20A criteria. The City of Santa Barbara has also adopted a similar franchise surcharge fee.

Having this funding source allows the City of San Diego to underground significantly more miles of above ground utility lines than other municipalities. However, the surcharge is currently being challenged in court, as it is argued that the City had SDG&E impose a tax without a ballot measure.

Utility Bankruptcy and Undergrounding Funding

In considering this Resolution, it is important to understand that Rule 20A allocations have been more substantial in the past. As mentioned earlier, prior to 2011, PG&E was allocating approximately 5% to 6% of its revenue to the Rule 20A program. Therefore, it is not unreasonable to encourage an increase in Rule 20A allocations as history shows that utilities had the capacity to do so in the past.

However, in a time where IOUs such as PG&E are facing bankruptcy as the result of utility caused wildfires, there is the possibility that expanding rule 20A funding will generate more costs for the ratepayers.

Questions to Consider:

- 1) Is Rule 20A or Rule 20D the more appropriate program to advocate for such an expansion?
- 2) Are there any wildfire risks outside of VHFHSZ that could be mitigated by undergrounding projects?

Existing League Policy:

Public Safety:

The League supports additional funding for local agencies to recoup the costs associated with fire safety in the community and timely mutual aid reimbursement for disaster response services in other jurisdictions. (pg. 43)

The League supports the fire service mission of saving lives and protecting property through fire prevention, disaster preparedness, hazardous-materials mitigation, specialized rescue, etc., as well as cities' authority and discretion to provide all emergency services to their communities. (pg. 43)

Transportation, Communication, and Public Works:

Existing telecommunications providers and new entrants shall adhere to local city policies on public utility undergrounding. (pg. 54)

The League supports protecting the additional funding for local transportation and other critical unmet infrastructure needs. (pg. 51)

The League supports innovative strategies including public private partnerships at the state and local levels to enhance public works funding. (pg. 52)

Environmental Quality

The League opposes any legislation that interferes with local utility rate setting authority and opposes any legislation that restricts the ability of a city to transfer revenue from a utility (or other enterprise activity) to the city's general fund. (pg. 9)

Cities should continue to have the authority to issue franchises and any program should be at least revenue neutral relative to revenue currently received from franchises. (pg. 9)

The League is concerned about the impacts of escalating energy prices on low income residents and small businesses. The League supports energy pricing structures and other mechanisms to soften the impacts on this segment of our community. (pg. 10)

2019 Strategic Goals

Improve Disaster Preparedness, Recovery and Climate Resiliency.

- Provide resources to cities and expand partnerships to better prepare for and recover from wildfires, seismic events, erosion, mudslides and other disasters.
- Improve community preparedness and resiliency to respond to climate-related, natural and man-made disasters.

Support:

The following letters of concurrence were received:

The City of Hidden Hills

The City of La Cañada Flintridge

The City of Laguna Beach

The City of Lakeport

The City of Malibu

The City of Moorpark

The City of Nevada City

The City of Palos Verdes Estates

The City of Rolling Hills Estates

The City of Rolling Hills

The City of Ventura

LETTERS OF CONCURRENCE
Resolution No. 1
Amendment to Rule 20A



City of Hidden Hills

6165 Spring Valley Road * Hidden Hills, California 91302
(818) 888-9281 * Fax (818) 719-0083

Item i.

August 14, 2019

Jan Arbuckle, President
League of California Cities
1400 K Street, Suite 400
Sacramento, California 95814

Dear President Arbuckle:

The City of Hidden Hills supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,

Larry G. Weber
Mayor



Leonard Pieroni, Mayor
Gregory C. Brown, Mayor Pro Tem
Jonathan C. Curtis
Michael T. Davitt
Terry M. Walker

August 14, 2019

Jan Arbuckle, President
League of California Cities
1400 K St., Ste. 400
Sacramento, CA 95814

Dear President Arbuckle:

The City of La Cañada Flintridge supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The City of La Cañada Flintridge is one of the few Southern California cities in which 100% of the community within a Very High Fire Hazard Severity Zone. The City, in 1987, committed 100% of its 20A allocation for forty-five years from this year for a major downtown undergrounding project. Therefore, the only way our City can directly benefit from this Resolution is if there is an additional annual increased allocation for this purpose. Due to the extreme threat the City experienced at the time of the Station Fire, the City is keenly aware of the damage a fire may potentially cause, whether from utility issues or from natural causes. The City strongly supports any effort, including this Resolution, to reduce fire danger for the City's residents.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly with the City of La Cañada Flintridge in support.

Sincerely,

Leonard Pieroni
Mayor



July 25, 2019

Jan Arbuckle, President
League of California Cities
1400 K St., Ste. 400
Sacramento, CA 95814

Dear President Arbuckle:

The City of Laguna Beach supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. Ten to the Top 20 most destructive fires in California were caused by electrical sources. The California's Rule 20A program, which allows local governments to pay for undergrounding of utilities costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it. We also believe that this program should redirect unused Rule 20A allocations from cities who have no undergrounding projects planned to the cities in Very High Fire Hazard Severity zones.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects. The City of Laguna Beach recommends that the resolution also be amended to call on the CPUC to redirect unused Rule 20A allocations from cities who have no undergrounding projects planned to the cities in Very High Fire Hazard Severity zones.

Nearly 90% of the City of Laguna Beach land area is designated under State Law and local ordinance as Very High Fire Hazard Severity Zone. While the City has used Rule 20A and 20B funding in the past to underground more than half of its overhead utilities, sufficient funding is not available to underground the remaining parts of the City.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.



For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,



Bob Whalen
Mayor

CITY OF LAKEPORT

*Over 125 years of community
pride, progress and service*



August 7, 2019

Jan Arbuckle, President
League of California Cities
1400 K St., Ste. 400
Sacramento, CA 95814

Dear President Arbuckle:

The City of Lakeport supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,

Tim Barnes
Mayor
City of Lakeport



City of Malibu

Jefferson Wagner, Mayor

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

Item i.

August 15, 2019

Jan Arbuckle, President
League of California Cities
1400 K St., Ste. 400
Sacramento, CA 95814

RE: City of Rancho Palos Verdes Proposed Resolution to Amend California Public Utilities Commission Rule 20A – SUPPORT

Dear Ms. Arbuckle:

At its Regular meeting on August 12, 2019, the Malibu City Council unanimously voted to support the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state, but California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, as well as willing and able to foot the bill. The City of Malibu agrees with Rancho Palos Verdes that Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission (CPUC) should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects. As a recent series of news stories on wildfire preparedness in California pointed out, there are more than 75 communities across the state with populations over 1,000, including Rancho Palos Verdes and Malibu, where at least 90 percent of residents live in a Cal Fire-designated Very High Fire Hazard Severity Zone.

It is well-known that electric utility equipment is a common fire source, and has sparked some of the most destructive blazes in our state's history. Moving power lines underground is, therefore, a critical tool in preventing them. Currently, Rule 20A primarily addresses visual blight, but with fire seasons worsening, it is key that fire safety also be considered when local governments pursue Rule 20A projects, and that annual funding allocations for the program be expanded.

It is worth noting that the State does have a program, Rule 20D, that factors in fire safety for funding undergrounding projects. However, this is limited to San Diego Gas & Electric Company projects in certain areas only. This needs to be expanded to include projects in all projects within designated Very High Fire Hazard Severity Zones.

The proposed resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

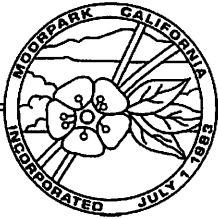
For these reasons, the City of Malibu strongly concurs that the resolution should go before the General Assembly.

Sincerely,



Jefferson Wagner
Mayor

Cc: Honorable Members of the Malibu City Council
Reva Feldman, City Manager
Megan Barnes, City of Rancho Palos Verdes, mbarnes@rpvca.gov



CITY OF MOORPARK

Item i.

799 Moorpark Avenue, Moorpark, California 93021

Main City Phone Number (805) 517-6200 | Fax (805) 532-2205 | moorpark@moorparkca.gov

July 24, 2019

SUBMITTED ELECTRONICALLY

Jan Arbuckle, President
League of California Cities
1400 K St., Ste. 400
Sacramento, CA 95814

RE: SUPPORT FOR RANCHO PALOS VERDES RESOLUTION RE: POWER LINE
UNDERGROUNDING

Dear President Arbuckle:

The City of Moorpark supports the City of Rancho Palos Verdes effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

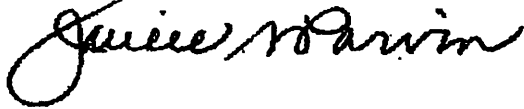
The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

All cities in Ventura County, including Moorpark, have wildfire prevention fresh in our memories following the highly destructive 2017-2018 Thomas Fire, which was caused by above-ground power lines. The 2018 Woolsey Fire similarly affected Ventura County, and lawsuits have been filed alleging it was also caused by above-ground power lines. Each of these fires caused billions of dollars in damages and highlight the importance of undergrounding power lines.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,

A handwritten signature in black ink, appearing to read "Janice Parvin". The signature is fluid and cursive, with the first name "Janice" written in a larger, more prominent script than the last name "Parvin".

Janice Parvin
Mayor

cc: City Council
City Manager



Jan Arbuckle, President
League of California Cities
1400 K St., Ste. 400
Sacramento, CA 95814

Dear President Arbuckle:

The City of Nevada City supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission (CPUC) should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

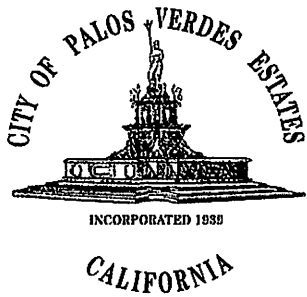
The City of Nevada City would also like to add that the local agency be given the power to use private firms to do design, inspect and construct Rule 20A projects in local jurisdiction rather than be required to use the designated local utility. In addition, the City of Nevada City wants the CPUC to allow local jurisdictions to transfer excess funds between agencies to better serve projects in high fire hazard severity zones.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,

Reinette Senum
Mayor
City of Nevada City



CITY OF
Palos Verdes Estates

Item i.

July 25, 2019

Jan Arbuckle, President
League of California Cities
1400 K St., Ste. 400
Sacramento, CA 95814

Dear President Arbuckle:

The City of Palos Verdes Estates supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's current Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,

Mayor Kenneth J. Kao
City of Palos Verdes Estates

cc: PVE City Council
PVE Interim City Manager Petru
RPV City Manager Willmore



**City of
Rolling Hills Estates**

Judith Mitchell
Mayor

Velveth Schmitz
Mayor Pro Tem

Britt Huff
Council Member

Frank V. Zerunyan
Council Member

Steven Zuckerman
Council Member

Item i.

August 14, 2019

Jan Arbuckle, President
League of California Cities
1400 K St., Ste. 400
Sacramento, CA 95814

Dear President Arbuckle:

The City of Rolling Hills Estates supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,


Judith Mitchell
Mayor



City of Rolling Hills

INCORPORATED JANUARY 24, 1957

Item i.

NO. 2 PORTUGUESE BEND ROAD
ROLLING HILLS, CALIF. 90274
(310) 377-1521
FAX: (310) 377-7288

August 14, 2019

Jan Arbuckle, President
League of California Cities
1400 K St., Ste. 400
Sacramento, CA 95814

Dear Board of Directors:

The City of Rolling Hills supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,

Leah Mirsch
Mayor

CITY OF
VENTURA

July 29, 2019

Jan Arbuckle, President
League of California Cities
1400 K St., Ste. 400
Sacramento, CA 95814

Dear President Arbuckle:

The City of Ventura supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

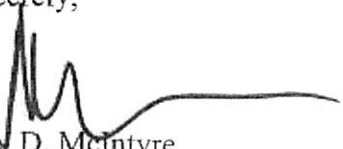
Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,



Alex D. McIntyre
City Manager

2. A RESOLUTION CALLING UPON THE FEDERAL AND STATE GOVERNMENTS TO ADDRESS THE DEVASTATING IMPACTS OF INTERNATIONAL TRANSBOUNDARY POLLUTION FLOWS INTO THE SOUTHERNMOST REGIONS OF CALIFORNIA AND THE PACIFIC OCEAN

Source: San Diego County Division

Concurrence of five or more cities/city officials

Cities: Calexico; Coronado; Imperial Beach; San Diego

Individual City Officials: City of Brawley: Mayor Pro Tem Norma Kastner-Jauregui; Council Members Sam Couchman, Luke Hamby, and George Nava. City of Escondido: Deputy Mayor Consuelo Martinez. City of La Mesa: Council Member Bill Baber. City of Santee: Mayor John Minto, City of Vista: Mayor Judy Ritter and Council Member Amanda Young Rigby

Referred to: Environmental Quality Policy Committee

WHEREAS, international transboundary rivers that carry water across the border from Mexico into Southern California are a major source of sewage, trash, chemicals, heavy metals and toxins; and

WHEREAS, transboundary flows threaten the health of residents in the United States and Mexico, harm important estuarine land and water of international significance, force closure of beaches, damage farmland, adversely impact the South San Diego County and Imperial County economy; compromise border security, and directly affect U.S. military readiness; and

WHEREAS, a significant amount of untreated sewage, sediment, hazardous chemicals and trash have been entering southern California through both the Tijuana River Watershed (75 percent of which is within Mexico) and New River flowing into southern California's coastal waterways and residential and agricultural communities in Imperial County eventually draining into the Salton Sea since the 1930s; and

WHEREAS, in February 2017, an estimated 143 million gallons of raw sewage flowed into the Tijuana River and ran downstream into the Pacific Ocean and similar cross border flows have caused beach closures at Border Field State Park that include 211 days in 2015; 162 days in 2016; 168 days in 2017; 101 days in 2018; and 187 days to date for 2019 as well as closure of a number of other beaches along the Pacific coastline each of those years; and

WHEREAS, approximately 132 million gallons of raw sewage has discharged into the New River flowing into California through communities in Imperial County, with 122 million gallons of it discharged in a 6-day period in early 2017; and

WHEREAS, the presence of pollution on state and federal public lands is creating unsafe conditions for visitors; these lands are taxpayer supported and intended to be managed for recreation, resource conservation and the enjoyment by the public, and

WHEREAS, the current insufficient and degrading infrastructure in the border zone poses a significant risk to the public health and safety of residents and the environment on both

sides of the border, and places the economic stress on cities that are struggling to mitigate the negative impacts of pollution; and

WHEREAS, the 1944 treaty between the United States and Mexico regarding *Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande* allocates flows on trans-border rivers between Mexico and the United States, and provides that the nations, through their respective sections of the International Boundary Water Commission shall give control of sanitation in cross border flows the highest priority; and

WHEREAS, in 1993, the United States and Mexico entered into the *Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a North American Development Bank* which created the North American Development Bank (NADB) to certify and fund environmental infrastructure projects in border-area communities; and

WHEREAS, public concerns in response to widespread threats to public health and safety, damage to fish and wildlife resources and degradation to California's environment resulting from transboundary river flow pollution in the southernmost regions of the state requires urgent action by the Federal and State governments, and

WHEREAS, Congress authorized funding under the U.S. Environmental Protection Agency's (EPA) Safe Drinking Water Act and established the State and Tribal Assistance Grants (STAG) program for the U.S.-Mexico Border Water Infrastructure Program (BWIP) in 1996 to provide grants for high-priority water, wastewater, and storm-water infrastructure projects within 100 kilometers of the southern border; and

WHEREAS, the EPA administers the STAG and BWIP programs, and coordinates with the North American Development Bank (NADB) to allocate BWIP grant funds to projects in the border zone; and

WHEREAS, since its inception, the BWIP program has provided funding for projects in California, Arizona, New Mexico and Texas that would not have been constructed without the grant program; and

WHEREAS, the BWIP program was initially funded at \$100 million per year, but, over the last 20 years, has been continuously reduced to its current level of \$10 million; and

WHEREAS, in its FY 2020 Budget Request, the Administration proposed to eliminate the BWIP program; and

WHEREAS, officials from EPA Region 9, covering California, have identified a multitude of BWIP-eligible projects along the southern border totaling over \$300 million; and

WHEREAS, without federal partnership through the BWIP program and state support to address pollution, cities that are impacted by transboundary sewage and toxic waste flows are

left with limited resources to address a critical pollution and public health issue and limited legal remedies to address the problem; and

WHEREAS, the National Association of Counties, (NACo) at their Annual Conference on July 15, 2019 and the U.S. Conference of Mayors at their Annual Conference on in July 1, 2019 both enacted resolutions calling on the federal and state governments to work together to fund and address this environmental crisis; and

WHEREAS, local governments and the public support the State's primary objectives in complying with environmental laws including the Clean Water Act, Porter-Cologne Water Quality Control Act, and Endangered Species Act and are supported by substantial public investments at all levels of government to maintain a healthy and sustainable environment for future residents of California, and

WHEREAS, League of California Cities policy has long supported efforts to ensure water quality and oppose contamination of water resources; and

NOW, THEREFORE, BE IT RESOLVED at the League General Assembly, assembled at the League Annual Conference on October 18, 2019 in Long Beach, that the League calls upon the Federal and State governments to restore and ensure proper funding to the U.S- Mexico Border Water Infrastructure Program (BWIP) and recommit to working bi-nationally to develop and implement long-term solutions to address serious water quality and contamination issues, such as discharges of untreated sewage and polluted sediment and trash-laden transboundary flows originating from Mexico, that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

Background Information on Resolution No. 2

Source: San Diego County Division

Background:

Along California's southern border with Mexico, the New River in Imperial County and the Tijuana River in San Diego County are a major sources of raw sewage, trash, chemicals, heavy metals, and toxins that pollute local communities. Sewage contaminated flows in the Tijuana River have resulted in significant impacts to beach recreation that includes the closure of Border Field State Beach for more than 800 days over the last 5-years. Similarly, contaminated flows in the New River presents comparable hazards, impacts farm land, and contributes to the ongoing crisis in the Salton Sea. These transboundary flows threaten the health of residents in California and Mexico, harms the ecosystem, force closures at beaches, damage farm land, makes people sick, and adversely affects the economy of border communities. The root cause of this cross border pollution is from insufficient or failing water and wastewater infrastructure in the border zone and inadequate federal action to address the problem through existing border programs.

The severity of cross border pollution has continued to increase, due in part to the rapid growth of urban centers since the passage of the North American Free Trade Agreement (NAFTA). While economic growth has contributed to greater employment, the environmental infrastructure of the region has not kept pace, which is why Congress authorized the Border Water Infrastructure Program (BWIP) in 1996. The U.S. Environmental Protection Agency (EPA) administers the BWIP and coordinates with the North American Development Bank (NADB) to provide financing and technical support for projects on both sides of the U.S./Mexico border. Unfortunately, the current BWIP funding at \$10 million per year is only a fraction of the initial program budget that shares funding with the entire 2,000 mile Mexican border with California, Arizona, New Mexico and Texas. EPA officials from Region 9 have identified an immediate need for BWIP projects totaling over \$300 million just for California. Without federal partnerships through the BWIP and state support to address cross border pollution, cities that are impacted by transboundary sewage and toxic waste flows are left with limited resources to address a critical pollution and public health issue.

The International Boundary and Water Commission (IBWC) is another important federal stakeholder that, under the Treaty of 1944 with Mexico, must address border sanitation problems. While IBWC currently captures and treats some of the pollution generated in Mexico, it also redirects cross border flows without treatment directly into California.

Improving environmental and public health conditions for communities along the border is essential for maintaining strong border economy with Mexico. The IBWC, EPA, and NADB are the important federal partners with existing bi-national programs that are able to immediately implement solutions on cross border pollution. California is in a unique position to take the lead and work with local and federal partners to implement real solutions that will addresses the long standing and escalating water quality crisis along the border.

For those reasons, the cities of Imperial Beach and Coronado requested the San Diego County Division to propose a resolution at the 2019 League Annual Conference calling upon the federal

and state governments to address the devastating impacts of international transboundary pollution flows into the waterways of the southernmost regions of California, San Diego and Imperial Counties and the Pacific Ocean.

On August 12, 2019 at the regularly scheduled meeting of the San Diego County Division, the membership unanimously endorsed submittal of the resolution, with close to 75% membership present and voting.

The Imperial County Division does not have a scheduled meeting until after the deadline to submit proposed resolutions. However, the City of Calexico, which is most directly impacted by initial pollution flow of the New River from Mexicali, sent a letter in concurrence of this resolution as well as numerous city officials from cities within Imperial County and the Imperial County Board of Supervisors. The League Imperial County Division will place a vote to support this resolution on the agenda of their September 26, 2019 meeting.

League of California Cities Staff Analysis on Resolution No. 2

Staff: Derek Dolfie, Legislative Representative
 Carly Shelby, Legislative and Policy Development Assistant
 Committees: Environmental Quality

Summary:

This Resolution states that the League of California Cities should call upon the State and Federal governments to restore and ensure proper funding for the U.S. – Mexico Border Water Infrastructure Program (BWIP) and work bi-nationally to address water quality issues resulting from transboundary flows from Mexico’s Tijuana River into the United States containing untreated sewage, polluted sediment, and trash.

Background:

The League of California Cities’ San Diego County Division is sponsoring this resolution to address their concerns over the contaminated flows from the Tijuana River into California that have resulted in the degradation of water quality and water recreational areas in Southern California.

The Tijuana River flows north through highly urbanized areas in Mexico before it enters the Tijuana River Estuary and eventually the Pacific Ocean via waterways in San Diego County in California. Urban growth in Tijuana has contributed to a rise in rates of upstream flows from water treatment facilities in Mexico. These treatment facilities have raised the amount of untreated sewage and waste in the Tijuana River due to faulty infrastructure and improper maintenance. The federal government refers to the river as an “impaired water body” because of the presence of pollutants in excess, which pose significant health risks to residents and visitors in communities on both sides of the border.

Federal Efforts to Address Pollution Crisis

To remedy the Tijuana River’s low water quality, the United States and Mexico entered into a Treaty in 1944 entitled: *Utilization of Waters of the Colorado River and Tijuana Rivers and of the Rio Grande – the International Boundary and Water Commission (IBWC)*. The IBWC was designed to consist of a United States section and a Mexico section. Both sections were tasked with negotiating and implementing resolutions to address water pollution in the area, which includes overseeing the development of water treatment and diversion infrastructure.

After the formation of the IBWC, the U.S. and Mexico entered into a treaty in 1993 entitled: *Agreement Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank*. This agreement established the North American Development Bank (NADB), which certifies and funds infrastructure projects located within 100 kilometers (62 miles) of the border line. The NADB supports federal programs like the Border Water Infrastructure Program (BWIP), which was initially funded at \$100 million, annually.

The degradation of existing water treatment infrastructure along the border coincides with the federal government’s defunding of the BWIP, which has steadily decreased from \$100 million in 1996 to \$10 million today. The Federal FY 2020 Budget proposes eliminating BWIP funding

altogether. EPA's regions 6 and 9 (includes U.S. states that border Mexico) have identified a number of eligible projects that address public health and environmental conditions along the border totaling \$340 million.

The NADB has funded the development of water infrastructure in both the U.S. and Mexico. Water diversion and treatment infrastructure along the U.S – Mexico border includes, but is not limited to, the following facilities:

- *The South Bay International Wastewater Treatment Plant (SBIWTP)*. This facility was constructed by the U.S. in 1990 and is located on the California side of the border and is operated under the jurisdiction of the IBWC. The SBIWTP serves as a diversion and treatment sewage plant to address the flow of untreated sewage from Mexico into the United States.
- *Pump Station CILA*. CILA was constructed by Mexico in 1991 and is located along the border in Mexico. This facility serves as the SBIWTP's Mexican counterpart.

Both the SBIWTP and CILA facilities have had a multitude of overflows containing untreated sewage and toxic waste that spills into the Tijuana River. The cause of overflows can be attributed to flows exceeding the maximum capacity that the infrastructure can accommodate (this is exacerbated during wet and rainy seasons) and failure to properly operate and maintain the facilities. Much of the existing infrastructure has not had updates or repairs for decades, causing overflows to become more frequent and severe. The most notable overflow occurred in February 2017, wherein 143 million gallons of polluting waste discharged into the Tijuana River; affecting the Tijuana Estuary, the Pacific Ocean, and Southern California's waterways.

State Actions

In response to the February 2017 overflow, the San Diego Water Board's Executive Officer sent a letter to the U.S. and Mexican IBWC Commissioners which included recommendations on how to improve existing infrastructure and communications methods between both nations.

In September of 2018, California Attorney General Xavier Becerra submitted a lawsuit against IBWC for Violating the Clean Water Act by allowing flows containing sewage and toxic waste to flow into California's waterways, posing a public health and ecological crisis. The cities of Imperial Beach, San Diego, Chula Vista, the Port of San Diego, and the San Diego Regional Water Quality Board have also filed suit against the IBWC. The suit is awaiting its first settlement conference on October 19, 2019. If parties are unable to reach a settlement, the case will go to trial.

Fiscal Impact:

California's economy is currently the sixth largest in the world, with tourism spending topping \$140.6 billion in 2018. In the past five years, San Diego's Border Field State Park has been closed for over 800 days because of pollution from the Tijuana River. A decline in the State's beach quality and reputation could carry macroeconomic effects that could ripple outside of the San Diego County region and affect coastal communities throughout California.

Existing League Policy

The League of California Cities has extensive language on water in its Summary of Existing Policy and Guiding Principles. Fundamentally, the League recognizes that beneficial water quality is essential to the health and welfare of California and all of its citizens. Additionally, the League advocates for local, state and federal governments to work cooperatively to ensure that water quality is maintained.

The following policy relates to the issue of water quality:

- Surface and groundwater should be protected from contamination.
- Requirements for wastewater discharge into surface water and groundwater to safeguard public health and protect beneficial uses should be supported.
- When addressing contamination in a water body, water boards should place priority emphasis on clean-up strategies targeting sources of pollution, rather than in stream or end-of-pipe treatment.
- Water development projects must be economically, environmentally and scientifically sound.
- The viability of rivers and streams for instream uses such as fishery habitat, recreation and aesthetics must be protected.
- Protection, maintenance, and restoration of fish and wildlife habitat and resources.

Click [here](#) to view the **Summary of Existing Policy and Guiding Principles 2018**.

Comments:

1. Water quality issues are prevalent across California and have been a constant priority of the State's legislature and residents. In 2014, California's voters approved Proposition 1, which authorized \$7.5 billion in general obligation bonds to fund water quality improvement projects. In 2019, the Legislature reached an agreement to allocate \$130 million from the State's Greenhouse Gas Reduction Fund (GGRF) to address failing water infrastructure and bad water qualities for over one million of California's residents in rural communities. Water quality is not an issue unique to the County of San Diego and communities along the border.
2. Tijuana River cross-border pollution has caught national attention. Members of Congress have proposed recent funding solutions to address the pollution crisis, including:
 - In February of 2019, California Congressional Representatives Vargas, Peters, and Davis helped secure \$15 million for the EPA to use as part of its BWIP.
 - *H.R. 3895 (Vargas, Peters, 2019), The North American Development Bank Pollution Solution Act*. This bill seeks to support pollution mitigation efforts along the border by increasing the NADB's capital by \$1.5 billion.
 - *H.R. 4039 (Levin, 2019), The Border Water Infrastructure Improvement Act*. This bill proposes increasing funding to the BWIP from the existing \$10 million to \$150 million as a continuous appropriation until 2025.

Additionally, the National Association of Counties (NACo) and the U.S. Conference of Mayors enacted resolutions in support of increased funding for U.S. – Mexico border water infrastructure to address the environmental crisis in 2019.

3. The border pollution problem has sparked action from local, state, and federal actors. Should this resolution be adopted, League membership should be aware that future action will be adapted by what is explicitly stated in the resolution's language. In current form, the resolution's resolve clause cites the BWIP as the only program that should receive reinstated and proper funding. League staff recommends the language be modified to state:

“NOW, THEREFORE, BE IT RESOLVED at the League General Assembly, assembled at the League Annual Conference on October 18, 2019 in Long Beach, that the League calls upon the Federal and State governments to restore and ensure proper funding for environmental infrastructure on the U.S. – Mexico Border, including to the U.S.–Mexico Border Water Infrastructure Program (BWIP), and recommit to working bi-nationally to develop and implement long-term solutions to address serious water quality and contamination issues, such as discharges of untreated sewage and polluted sediment and trash-laden transboundary flows originating from Mexico, that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.”

Modifying the language would ensure enough flexibility for the League to support funding mechanisms outside of the prescribed federally-operated BWIP.

4. It remains unclear if there is an appetite in Washington to fund border-related infrastructure projects that address environmental quality. Given the high probability of another overflow containing waste and sewage from the existing infrastructure operated by the IBWC, League membership should consider the outcome if no resolution is reached to address the issue.

Support:

The following letters of concurrence were received:

Cities:

The City of Calexico

The City of Coronado

The City of Imperial Beach

The City of San Diego

In their individual capacity:

Amanda Young Rigby, City of Vista Council Member

Bill Baber, City of La Mesa Council Member

Consuelo Martinez, City of Escondido Deputy Mayor

George A. Nava, City of Brawley Council Member

John Minto, City of Santee Mayor

Judy Ritter, City of Vista Mayor

Luke Hamby, City of Brawley Council Member

Norma Kastner-Jauregui, City of Brawley Mayor Pro-Tempore

Sam Couchman, City of Brawley Council Member

LETTERS OF CONCURRENCE

Resolution No. 2

International Transboundary Pollution Flows



CITY OF CALEXICO

608 Heber Ave.
Calexico, CA 92231-2840
Tel: 760.768.2110
Fax: 760.768.2103
www.calexico.ca.gov

Item i.

August 15, 2019

Jan Arbuckle, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: Environmental and Water Quality Impacts Of International Transboundary River
Pollution Flow Resolution**

President Arbuckle:

The city of Calexico strongly supports the San Diego County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

The Division's resolution calls upon the Federal and State governments to restore and ensure proper funding of the Border Water Infrastructure Program (BWIP) to address the devastating impacts of international transboundary pollution flows into the waterways of the southernmost regions of California (San Diego and Imperial Counties) and the Pacific Ocean.

Local government and the public support the State's water and environmental quality objectives and League policy has long supported efforts to ensure water quality and oppose contamination of water resources. This resolution addresses the critical need for the federal and state governments to recommit to work bi-nationally to develop and implement long-term solutions to address serious water quality and contamination issues, such as discharges of untreated sewage and polluted sediment and trash-laden transboundary flows originating from Mexico, that result in significant health, environmental and safety concerns in communities along California's southern border impacting the state.

As members of the League, our city values the policy development process provided to the General Assembly. We appreciate your time on this issue.

Viva Calexico!

If you have any questions or require additional information, please do not hesitate to contact me at 760/768-2110.

Sincerely,

CITY OF CALEXICO



David Dale
City Manager

Cc: Honorable Mayor Bill Hodge



CITY OF CORONADO

1825 STRAND WAY
CORONADO, CA 92118

OFFICE OF THE CITY MANAGER
(619) 522-7335
FAX (619) 522-7846

August 15, 2019

Jan Arbuckle, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Environmental and Water Quality Impacts of International Transboundary River Pollution Flows Resolution

This letter is written on behalf of and with the support of the Coronado City Council. The City of Coronado wholeheartedly supports the resolution adopted by the San Diego County and Imperial County Division of the California League of Cities.

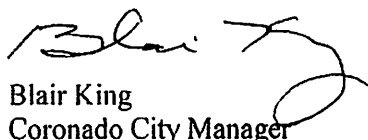
The San Diego County Division's resolution calls upon the federal and state governments to restore and ensure proper funding of the U.S.-Mexico Border Water Infrastructure Program (BWIP) to address the devastating impacts of international transboundary pollution flows into the waterways of the southernmost regions of California (San Diego and Imperial Counties) and the Pacific Ocean.

The City has been working closely with the Environmental Protection Agency and other federal partners on the matter since early 2018. City leaders are committed to finding long-term, sustainable solutions to this problem. Through its advocacy and education efforts, the City of Coronado has raised national awareness of the problem among legislators, political appointees and career staff at federal agencies. These efforts have been successful. However, the City along with our coalition partners, look forward to more action to swiftly resolve this issue.

Local government and the public support the state's water and environmental quality objectives and League policy has long supported efforts to ensure water quality and oppose contamination of water resources. This resolution addresses the critical need for the federal and state governments to recommit to work bi-nationally to develop and implement long-term solutions to address serious water quality and contamination issues, such as discharges of untreated sewage and polluted sediment and trash-laden transboundary flows originating from Mexico, that result in significant health, environmental and safety concerns in communities along California's southern border impacting the state.

As members of the League, Coronado values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact me if you have any questions.

Sincerely,



Blair King
Coronado City Manager

cc: Coronado Mayor and City Council
Bill Baber, President, San Diego County Division
c/o Catherine Hill, Regional Public Affairs Manager, San Diego County Division chill@cacities.org



City of Imperial Beach, California

Item i.

OFFICE OF THE CITY MANAGER

825 Imperial Beach Blvd., Imperial Beach, CA 91932 Tel: (619) 423-8303 Fax: (619) 628-1395

August 15, 2019

Jan Arbuckle, President
League of California Cities
1400 K St. Suite 400
Sacramento, CA 95814

RE: Environmental and Water Quality Impacts Of International Transboundary River
Pollution Flow Resolution

President Arbuckle:

The city of Imperial Beach appreciates and supports the San Diego County Division's effort to submit a resolution for consideration by the full membership of the League of California Cities.

The Division's resolution calls on Federal and State government to address the impacts of transboundary pollution flows into the Southwestern regions of California. The pollution in these areas is an environmental disaster that threatens the health and general welfare of residents near the Mexican border in Imperial and San Diego Counties.

I encourage all voting delegates and elected officials in attendance at the 2019 Annual League of California Cities Conference in Long Beach to support this important resolution as it addresses the critical need for the federal and state government to recommit to work bi-nationally to address the serious contamination issues and to develop and implement long-term solutions.

I am available for any questions or additional information related to this letter of support.

Sincerely,

Andy Hall
City Manger

Cc: Honorable Mayor Serge Dedina
Honorable Mayor Pro Tem Robert Patton
Honorable Councilmember Paloma Aguirre
Honorable Councilmember Ed Spriggs
Honorable Councilmember Mark West



City of Imperial Beach, Califor

Item i.

OFFICE OF THE MAYOR

825 Imperial Beach Blvd., Imperial Beach, CA 91932 Tel: (619) 423-8303 Fax: (619) 628-1395

August 16, 2019

Jan Arbuckle, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Environmental and Water Quality Impacts Of International Transboundary River Pollution Flow Resolution

President Arbuckle:

The city of Imperial Beach strongly supports the San Diego County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

The Division's resolution calls upon the Federal and State governments to restore and ensure proper funding of the Border Water Infrastructure Program (BWIP) to address the devastating impacts of international transboundary pollution flows into the waterways of the southernmost regions of California (San Diego and Imperial Counties) and the Pacific Ocean.

Local government and the public support the State's water and environmental quality objectives and League policy has long supported efforts to ensure water quality and oppose contamination of water resources. This resolution addresses the critical need for the federal and state governments to recommit to work bi-nationally to develop and implement long-term solutions to address serious water quality and contamination issues, such as discharges of untreated sewage and polluted sediment and trash-laden transboundary flows originating from Mexico, that result in significant health, environmental and safety concerns in communities along California's southern border impacting the state.

As members of the League, our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. If you have any questions or require additional information, please do not hesitate to contact me at 619-423-8303.

Sincerely,

Serge Dedina
Mayor



THE CITY OF SAN DIEGO

KEVIN L. FAULCONER

Mayor

August 15, 2019

Jan Arbuckle, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: Environmental and Water Quality Impacts of International Transboundary River
Pollution Flow Resolution**

President Arbuckle:

The City of San Diego supports the San Diego County Division in their effort to submit a resolution to the General Assembly at the League of California Cities' 2019 Annual Conference in Long Beach.

To suppress the flow of pollution between the Mexico and Southern California's water channels, the Division requests for the Federal and State governments to give proper funding to the Border Water Infrastructure Program (BWIP).

The City of San Diego and its citizens have expressed their concerns about untreated sewage, polluted sediment and trash flowing from Mexico, into California, causing health, environmental and safety concerns. The State's water and environmental quality objectives and League policy has long supported efforts to ensure water quality and oppose contamination of water resources. With the Division's resolution, the great need for federal and state governments to reconsider working together, will help in developing a long-term solution to address serious water quality and contamination issues.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue.

Please contact me at (619)453-9946 if you have any questions.

Sincerely,

Denice Garcia
Director of International Affairs

Cc: Honorable Mayor Kevin L. Faulconer



AMANDA YOUNG RIGBY
CITY COUNCILWOMAN

August 15, 2019

Jan Arbuckle, President
League of California Cities
1400 K Street, 4th Floor
Sacramento, CA 95814

Re: Border Sewage Issues

Dear President Arbuckle;

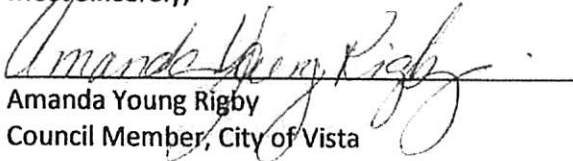
As a Council Member in the City of Vista, and solely in my individual capacity as such, I write in **support** of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the constant sewage pollution issues at the international border with Mexico.

This Resolution requests that the federal and state governments recognize the paramount importance of this issue and address the devastating impacts that this constant contamination has on the southernmost regions of California and the Pacific coastline by requesting the necessary funding to develop and implement effective and long term solutions to the raw sewage contamination coming into San Diego and Imperial Counties from Mexico.

Although I have lived in Vista for 27 years now, I grew up in Imperial Beach and know well the severe health and environmental impact that this situation has had on our border communities for the **decades**.

As a member of the League, I value the League's ability to effectively advocate on behalf of not only our cities but in effect, our citizens, and this is an important issue for our entire state. Should you have any questions or comments, please contact me at the number below. Thank you for your consideration.

Most Sincerely,


Amanda Young Rigby
Council Member, City of Vista

cc: Vista City Council
Vista City Manager
Vista City Attorney
City of Imperial Beach
City of Coronado
City of Calexico
City of San Diego



August 16, 2019

Jan Arbuckle, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Environmental and Water Quality Impacts Of International Transboundary River Pollution Flows Resolution

President Arbuckle:

As a Council Member for the City of La Mesa and in my individual capacity, not on behalf of the full La Mesa City Council as a body or the City, I am writing you in support of the San Diego County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

The Division's resolution calls upon the Federal and State governments to restore and ensure proper funding of the Border Water Infrastructure Program (BWIP) to address the devastating impacts of international transboundary pollution flows into the waterways of the southernmost regions of California (San Diego and Imperial Counties) and the Pacific Ocean.

As San Diego County Division President and a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at 619-667-1106, should you have any questions.

Sincerely,

BILL BABER
COUNCIL MEMBER CITY OF LA MESA
PRESIDENT, LEAGUE SAN DIEGO COUNTY DIVISION

Consuelo Martinez, Deputy Mayor
201 North Broadway, Escondido, CA 92025
Phone: 760-839-4638

August 16, 2019

Jan Arbuckle, President
League of California Cities
1400 K Street, 4th Floor
Sacramento, CA 95814

Dear President Arbuckle:

As one Council Member of the city of Escondido, and in my individual capacity and not on behalf of the Council as a body or the City, I write in support of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the transboundary river flow pollution impacting cities in San Diego and Imperial Counties.

This resolution calls upon the federal and state governments to address the devastating impacts of international transboundary pollution flows into the southernmost regions of California and the Pacific Ocean by requesting the necessary funding to develop solutions for pollution coming into San Diego County and Imperial County waterways through the Tijuana River and New River, respectively.

The passage of the proposed resolution by the San Diego County Division would provide support for the restoration of much needed funding and development and implementation of long-term solutions to address serious water quality and contamination issues, such as discharge of untreated sewage and polluted sediment and trash-laden transboundary flows that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

As a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at cmartinez@escondido.org if you have any questions.

Sincerely,



Consuelo Martinez
Deputy Mayor

cc: Honorable Mayor and City Council Members
Jeffrey R. Epp, City Manager



CITY OF BRAWLEY

ADMINISTRATIVE OFFICES

383 Main Street
Brawley, CA 92227
Phone: (760) 351-3048
FAX: (760) 351-3088

Item i.

August 15, 2019

Jan Arbuckle, President
League of California Cities
1400 K Street, 4th Floor
Sacramento, CA 95814

Dear President Arbuckle:

As one Council Member of the City of Brawley, and in my individual capacity and not on behalf of the Council as a body or the City, I write in support of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the transboundary river flow pollution impacting cities in San Diego and Imperial Counties.

This resolution calls upon the federal and state governments to address the devastating impacts of international transboundary pollution flows into the southernmost regions of California and the Pacific Ocean by requesting the necessary funding to develop solutions for pollution coming into San Diego County and Imperial County waterways through the Tijuana River and New River, respectively.

The passage of the proposed resolution by the San Diego County Division would provide support for the restoration of much needed funding and development and implementation of long-term solutions to address serious water quality and contamination issues, such as discharge of untreated sewage and polluted sediment and trash-laden transboundary flows that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

As a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at (City email) if you have any questions.

Sincerely,

George A. Nava
City Council Member
City of Brawley

MAYOR
John W. Minto



CITY COUNCIL
Ronn Hall
Stephen Houlahan
Laura Koval
Rob McNelis

CITY OF SANTEE

Item i.

August 15, 2019

Jan Arbuckle, President
League of California Cities
1400 K Street, 4th Floor
Sacramento, CA 95814

Dear President Arbuckle:

As Mayor of the city of Santee, and in my individual capacity and not on behalf of the Council as a body or the City, I write in support of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the transboundary river flow pollution impacting cities in San Diego and Imperial Counties.

This resolution calls upon the federal and state governments to address the devastating impacts of international transboundary pollution flows into the southernmost regions of California and the Pacific Ocean by requesting the necessary funding to develop solutions for pollution coming into San Diego County and Imperial County waterways through the Tijuana River and New River, respectively.

The passage of the proposed resolution by the San Diego County Division would provide support for the restoration of much needed funding and development and implementation of long-term solutions to address serious water quality and contamination issues, such as discharge of untreated sewage and polluted sediment and trash-laden transboundary flows that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

As a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at (JMinto@cityofsantee.ca.gov) if you have any questions.

Sincerely,

JOHN W. MINTO
Mayor
City of Santee



JUDY RITTER
MAYOR

August 16, 2019

Jan Arbuckle, President
League of California Cities
1400 K Street, 4th Floor
Sacramento, CA 95814

Dear President Arbuckle:

As Mayor of the city of Vista, and in my individual capacity and not on behalf of the Council as a body or the City, I write in support of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the transboundary river flow pollution impacting cities in San Diego and Imperial Counties.

This resolution calls upon the federal and state governments to address the devastating impacts of international transboundary pollution flows into the southernmost regions of California and the Pacific Ocean by requesting the necessary funding to develop solutions for pollution coming into San Diego County and Imperial County waterways through the Tijuana River and New River, respectively.

The passage of the proposed resolution by the San Diego County Division would provide support for the restoration of much needed funding and development and implementation of long-term solutions to address serious water quality and contamination issues, such as discharge of untreated sewage and polluted sediment and trash-laden transboundary flows that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

As a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at jritter@cityofvista.com if you have any questions.

Sincerely,

Judy Ritter
Mayor
City of Vista



CITY OF BRAWLEY

Item i.

ADMINISTRATIVE OFFICES
383 Main Street
Brawley, CA 92227
Phone: (760) 351-3048
FAX: (760) 351-3088

August 15, 2019

Jan Arbuckle, President
League of California Cities
1400 K Street, 4th Floor
Sacramento, CA 95814

Dear President Arbuckle:

As one Council Member of the City of Brawley, and in my individual capacity and not on behalf of the Council as a body or the City, I write in support of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the transboundary river flow pollution impacting cities in San Diego and Imperial Counties.

This resolution calls upon the federal and state governments to address the devastating impacts of international transboundary pollution flows into the southernmost regions of California and the Pacific Ocean by requesting the necessary funding to develop solutions for pollution coming into San Diego County and Imperial County waterways through the Tijuana River and New River, respectively.

The passage of the proposed resolution by the San Diego County Division would provide support for the restoration of much needed funding and development and implementation of long-term solutions to address serious water quality and contamination issues, such as discharge of untreated sewage and polluted sediment and trash-laden transboundary flows that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

As a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at (City email) if you have any questions.

Sincerely,

Luke Hamby
City Council Member
City of Brawley



CITY OF BRAWLEY

ADMINISTRATIVE OFFICES
383 Main Street
Brawley, CA 92227
Phone: (760) 351-3048
FAX: (760) 351-3088

Item i.

August 15, 2019

Jan Arbuckle, President
League of California Cities
1400 K Street, 4th Floor
Sacramento, CA 95814

Dear President Arbuckle:

As one Council Member of the City of Brawley, and in my individual capacity and not on behalf of the Council as a body or the City, I write in support of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the transboundary river flow pollution impacting cities in San Diego and Imperial Counties.

This resolution calls upon the federal and state governments to address the devastating impacts of international transboundary pollution flows into the southernmost regions of California and the Pacific Ocean by requesting the necessary funding to develop solutions for pollution coming into San Diego County and Imperial County waterways through the Tijuana River and New River, respectively.

The passage of the proposed resolution by the San Diego County Division would provide support for the restoration of much needed funding and development and implementation of long-term solutions to address serious water quality and contamination issues, such as discharge of untreated sewage and polluted sediment and trash-laden transboundary flows that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

As a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at (City email) if you have any questions.

Sincerely,

Norma Kastner-Jauregui
Mayor Pro-Tempore
City of Brawley



CITY OF BRAWLEY

ADMINISTRATIVE OFFICE
383 Main Street
Brawley, CA 92227
Phone: (760) 351-3048
FAX: (760) 351-3088

Item i.

August 15, 2019

Jan Arbuckle, President
League of California Cities
1400 K Street, 4th Floor
Sacramento, CA 95814

Dear President Arbuckle:

As one Council Member of the City of Brawley, and in my individual capacity and not on behalf of the Council as a body or the City, I write in support of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the transboundary river flow pollution impacting cities in San Diego and Imperial Counties.

This resolution calls upon the federal and state governments to address the devastating impacts of international transboundary pollution flows into the southernmost regions of California and the Pacific Ocean by requesting the necessary funding to develop solutions for pollution coming into San Diego County and Imperial County waterways through the Tijuana River and New River, respectively.

The passage of the proposed resolution by the San Diego County Division would provide support for the restoration of much needed funding and development and implementation of long-term solutions to address serious water quality and contamination issues, such as discharge of untreated sewage and polluted sediment and trash-laden transboundary flows that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

As a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at (City email) if you have any questions.

Sincerely,

Sam Couchman
City Council Member
City of Brawley

September 19, 2019

TO: STATE, CITY AND LOCAL OFFICIALS

NOTICE OF PACIFIC GAS AND ELECTRIC COMPANY'S REQUEST TO INCREASE RATES FOR THE CATASTROPHIC EVENT MEMORANDUM ACCOUNT (CEMA) (A.19-09-012)

Summary

On September 13, 2019, Pacific Gas and Electric Company (PG&E) filed its 2019 Catastrophic Event Memorandum Account (CEMA) application with the California Public Utilities Commission (CPUC).

The application seeks recovery of \$159.3 million for costs related to PG&E's 2017 and 2018 fire and storm emergency response.

The scope of this application is thirteen catastrophic events, including multiple wildfires and a storm spanning from mid-2017 through 2018. This application does not include the 2015 Butte Fire, 2017 North Bay Fires or the 2018 Camp Fire. If the CPUC approves this application, PG&E will begin to recover costs in electric and gas rates beginning January 1, 2021. PG&E is proposing the recovery of costs and any rate increase to mostly occur over one-year starting in 2021, with smaller amounts recovered in 2022.

Background

CEMA is used to record unexpected costs incurred as a result of significant events declared to be disasters by the state of California or federal authorities. Costs are related to the following:

- Safely restoring utility services to customers during declared natural disasters
- Repairing, replacing or restoring damaged utility facilities
- Complying with governmental agency orders

Climate change is affecting weather patterns and field conditions in California, including extreme weather, drought, heat waves, and changes in precipitation levels and timing. This is leading to more frequent declared emergencies and larger-scale response events.

How will the application affect electric rates?

Most customers receive bundled electric service from PG&E, meaning they receive electric generation, transmission and distribution services.

Based on rates currently in effect, the bill for a typical residential Non-CARE customer using 500 kWh per month would increase from \$118.05 to \$119.41 or 1.1%. Actual impacts will vary depending on energy usage.

Direct Access and Community Choice Aggregation customers only receive electric transmission and distribution services from PG&E. On average, these customers would see an increase of 1.5%.

Another category of nonbundled customers is Departing Load. These customers do not receive electric generation, transmission or distribution services from PG&E. However, these customers are required to pay certain charges by law or CPUC decision. The impact of PG&E's application on these customers is an average increase of 0.5%.

Detailed rate information was provided in a bill insert sent directly to customers.

How will the application affect gas rates?

Bundled gas customers receive transmission, distribution, and procurement services from PG&E. Based on rates currently in effect, the gas bill for a typical residential non-CARE customer averaging 34 therms per month would increase from \$53.56 to \$53.59, or 0.05%.

How do I find out more about PG&E's proposals?

If you have questions about PG&E's filing, please contact PG&E at 1-800-743-5000. For TTY, call 1-800-652-4712. Para más detalles llame al 1-800-660-6789 • 詳情請致電 1-800-893-9555. If you would like a copy of PG&E's filing and exhibits, please write to PG&E at the address below:

Pacific Gas and Electric Company
2019 CEMA Application (A.19-09-012)
P.O. Box 7442
San Francisco, CA 94120

905-0-012
A copy of PG&E's filing and exhibits is also available for review at the CPUC's Central Files Office by appointment Item ii.
For more information, contact aljcentralfilesid@cpuc.ca.gov or 1-415-703-2045. PG&E's Application (without exhibits) is available on the CPUC's website at www.cpuc.ca.gov.

CPUC process

This application will be assigned to an Administrative Law Judge (Judge) who will determine how to receive evidence and other related information necessary for the CPUC to establish a record upon which to base its decision. Evidentiary hearings (EHs) may be held where parties will present their testimony and may be subject to cross-examination by other parties. These EHs are open to the public, but only those who are formal parties in the case can participate.

After considering all proposals and evidence presented during the hearings, the assigned Judge will issue a proposed decision which may adopt PG&E's proposal, modify it or deny it. Any of the five CPUC Commissioners may sponsor an alternate decision. The proposed decision, and any alternate decisions, will be discussed and voted upon at a scheduled CPUC Voting Meeting that is open to the public.

The California Public Advocates Office (CalPA) may review this application. CalPA is the independent consumer advocate within the CPUC with a legislative mandate to represent investor-owned utility customers to obtain the lowest possible rate for service consistent with reliable and safe service levels. CalPA has a multidisciplinary staff with expertise in economics, finance, accounting and engineering. For more information about CalPA, please call 1-415-703-1584, email PublicAdvocatesOffice@cpuc.ca.gov or visit CalPA's website at www.publicadvocates.cpuc.ca.gov.

Stay informed

If you would like to follow this proceeding, or any other issue before the CPUC, you may use the CPUC's free subscription service. Sign up at: <http://subscribecpuc.cpuc.ca.gov>. If you would like to learn how you can participate in the proceeding, have informal comments about the application or have questions about the CPUC processes, you may access the CPUC's Public Advisor Office (PAO) webpage at <http://consumers.cpuc.ca.gov/pao/>.

You may also contact the PAO as follows:

Email: public.advisor@cpuc.ca.gov

Mail: CPUC
Public Advisor's Office
505 Van Ness Avenue
San Francisco, CA 94102

Call: 1-866-849-8390 (toll-free) or 1-415-703-2074

TTY: 1-866-836-7825 (toll-free) or 1-415-703-5282

Please reference **PG&E's 2019 CEMA Application (A.19-09-012)** in any communications you have with the CPUC regarding this matter. All public comments will become part of the public correspondence file for this proceeding and made available for review by the assigned Judge, Commissioners and appropriate CPUC staff.