

ORDINANCE NO. 17-8

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CONCORD APPROVING THE MARIN CLEAN ENERGY JOINT POWERS AGREEMENT AND AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM

RECITALS

WHEREAS, the City of City of Concord has been actively investigating options to provide electric services to constituents within its service area since 2015 with the intent of promoting use of renewable energy, reducing energy related greenhouse gas emissions, and providing Concord residents, businesses, and government organizations with alternatives to Pacific Gas & Electric Company ("PG&E"); and

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

WHEREAS, on September 27, 2006, AB32 was signed into law establishing the goal of reducing the state's greenhouse gas emissions to 1990 levels by 2020; and

WHEREAS, the Act expressly authorizes participation in a CCA program through a joint powers agency, and on December 19, 2008, Marin Clean Energy ("MCE") was established as a joint powers authority pursuant to a Joint Powers Agreement, as amended from time to time; and

WHEREAS, on February 2, 2010, the California Public Utilities Commission certified the "Implementation Plan" of MCE, confirming MCE's compliance with the requirements of the Act; and

WHEREAS, on July 23, 2013, the Concord City Council adopted the Citywide Climate Action Plan ("CAP"), which calculated that 16% of the citywide greenhouse gas emissions originate from electricity use; and

WHEREAS, the CAP targets reducing greenhouse gas emissions 5.2 to 3.2 metric tons of CO2e per person per year by 2035; and

1 **WHEREAS**, the CAP also targets reducing the greenhouse gas emissions based on a building
2 performance by 330,236 metric tons of CO₂e by 2035; and

3 **WHEREAS**, electricity in Concord is generated and provided by PG&E and there is not
4 presently an alternative provider in the City. PG&E is currently working to add more renewable
5 energy to its power mix under California’s renewable portfolio standard and is on track to have 33-
6 percent renewables by the end of 2020; and

7 **WHEREAS**, the City of Concord is committed to the development of renewable energy
8 generation and energy efficiency improvements, reduction of greenhouse gases, protection of the
9 environment, and fully supports MCE's current electricity procurement plan, which targets more than
10 50% renewable energy content; and

11 **WHEREAS**, the City finds it important that its customers- residents, businesses, and public
12 facilities- have alternative choices to energy procurement beyond PG&E; and

13 **WHEREAS**, the City of Concord finds that joining MCE will offer Concord customers choice
14 in their power provider and will help Concord meet the state goal set out in AB32 and the goals
15 outlined in the Citywide Climate Action Plan; and

16 **WHEREAS**, in order to become a member of MCE, the MCE Joint Powers Agreement
17 requires the City to individually adopt an ordinance electing to implement a Community Choice
18 Aggregation program within its jurisdiction by and through its participation in MCE.

19 **THE CITY COUNCIL OF THE CITY OF CONCORD DOES ORDAIN AS FOLLOWS:**

20 **Section 1.** The recitals above are true and correct and are incorporated herein by reference and
21 constitute findings in this matter.

22 **Section 2.** Joining a Community Choice Energy Program does not constitute a “project”
23 within the meaning of Public Resources Code Section 21065, 14 Cal Code Regs. Section 15060(c)(3),
24 or 14 Cal Code Regs. Section 15378 because it has no potential for resulting in either a direct physical
25 change in the environment, or a reasonably foreseeable indirect physical change in the environment,
26 and involves administrative activities that will not result in direct or indirect physical changes in the
27 environment.
28

1 **Section 3.** In order to become a member of MCE, the Act requires the City of Concord to
2 individually adopt an ordinance electing to implement a Community Choice Aggregation program
3 within its jurisdiction by and through its participation in the MCE.

4 **Section 4.** Based upon all of the above, the Concord City Council elects to implement a
5 Community Choice Aggregation program within the City of Concord's jurisdiction by and through the
6 City of Concord's participation in MCE. As such, the Concord City Council hereby approves the
7 Marin Clean Energy Joint Powers Agreement and Authorizing the Implementation of a Community
8 Choice Aggregation Program.

9 **Section 5.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this
10 Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of
11 competent jurisdiction, such decision shall not affect the validity of the remaining portions of this
12 Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each
13 section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact
14 that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions
15 thereof be declared invalid or unconstitutional.

16 **Section 6.** This ordinance shall take effect on the later of (a) the date the Board of Directors of
17 MCE adopts a Resolution adding the City as a member of MCE, or (b) 30 days after its adoption and,
18 before the expiration of 30 days after its passage.

19 **Section 7.** The City Clerk shall either (a) have this Ordinance published in the East Bay
20 Times, a newspaper of general circulation once within fifteen (15) days after its adoption, or (b) have
21 a summary of this Ordinance published twice in the East Bay Times, a newspaper of general
22 circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption. In
23 the event a summary of said Ordinance is published in lieu of the entire Ordinance, a certified copy of
24 the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior
25 to its adoption and within fifteen (15) days after its adoption, including the vote of the
26 Councilmembers.

27 **Section 8.** The documents and other materials that constitute the record of proceedings upon
28

1 which the City Council based its determination are located in and may be obtained from the City of
2 Concord City Clerk, 1950 Parkside Drive, Concord, CA 94519.

3
4 ATTEST: _____
5 Laura M. Hoffmeister
6 Mayor

7 By: _____
8 Joelle Fockler, MMC
9 City Clerk

10 (Seal)

11 Ordinance No. 17-8 was duly and regularly introduced at a regular meeting of the City Council
12 of the City of Concord held on May 23, 2017, and was thereafter duly and regularly passed and
13 adopted at a regular meeting of the City Council held on June 13, 2017, by the following vote:

14 **AYES:** Councilmembers -

15 **NOES:** Councilmembers -

16 **ABSTAIN:** Councilmembers -

17 **ABSENT:** Councilmembers -

18 **I HEREBY CERTIFY** that the foregoing is a true and correct copy of an ordinance duly and
19 regularly introduced, passed, and adopted by the City Council of the City of Concord, California.

20 By: _____
21 Joelle Fockler, MMC
22 City Clerk