

**RESOLUTION NO. 2019-37**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, TO APPROVE MEMBERSHIP IN THE CALIFORNIA CHOICE ENERGY AUTHORITY, AGREEMENTS WITH SOUTHERN CALIFORNIA EDISON AND RIVER CITY BANK; AND A BOND PAYMENT TO THE CALIFORNIA PUBLIC UTILITIES COMMISSION**

**WHEREAS**, the City of Pomona (“City”) is a municipal corporation organized and operating under the laws of the State of California, with the City Council of the City of Pomona (“City Council”) serving as the governing body of the City;

**WHEREAS**, the California Clean Energy Authority (“Authority”) is a joint exercise of powers authority created under the Joint Exercise of Powers Act (California Government Code Section 6500, *et seq.*) by that certain agreement dated August 14, 2012, and originally entitled “Joint Exercise of Powers Agreement Relating to the California Clean Energy Authority” (“JPA Agreement”) attached herewith as Exhibit “A”;

**WHEREAS**, in March 2017 the Authority changed its name to California Choice Energy Authority, see Exhibit “B”;

**WHEREAS**, in February 2019 Authority approved new bylaws, attached herewith as Exhibit “C”, and provide that public agencies may be added as parties to the JPA Agreement, and thereby become members of the Authority, upon the following: (i) the filing with the Authority of an executed counterpart of the JPA Agreement, attached herewith as Exhibit “D”, together with a copy of the resolution of the governing body of the joining public agency approving the JPA Agreement and the execution and delivery thereof; and (ii) adoption of a resolution of the Authority’s governing body approving the addition of such public agency as a member;

**WHEREAS**, the City Council desires for the City to become a party to the JPA Agreement, and a member of the Authority, and finds that doing so will further the public health, safety, and general welfare of the community;

**WHEREAS**, the City desires the services of a collateral agent to complete functions including but not limited to the collection and transferring from customers, the City and power generators;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Pomona as follows:

**SECTION 1.** Based on the staff report, presentation, public comment, and other matters presented to the City Council during its consideration of this matter, the City Council finds and declares that the foregoing recitals are true and correct, and hereby incorporated as substantive findings of this Resolution.

**SECTION 2.** The City Council hereby approves and authorizes the City to enter into the JPA Agreement, and thereby approves and authorizes the City to become a member of the Authority. The City Manager is authorized and directed to execute a counterpart to the JPA Agreement on behalf of the City and file the same, along with a copy of this Resolution, with the Authority pursuant to Section 12 of the JPA Agreement.

**SECTION 3.** The City Council hereby authorizes the City to enter into, and the City Manager is authorized and directed to execute on the City's behalf, an administrative services agreement with the Authority in a form substantially similar to that attached hereto as Exhibit "D" ("Services Agreement"). The City Council further authorizes the Authority to enter into any ancillary agreements required in connection with the Services Agreement on behalf of the City.

**SECTION 4.** The City Council hereby authorizes the City to enter into, and the City Manager is authorized and directed to execute on the City's behalf, an intercreditor agreement, security agreement, and one or more account control agreements in a form substantially similar to those respective agreements as are attached hereto as Exhibits "E", "F", and "G". The City Council further authorizes the Authority to enter into any ancillary agreements on behalf of the City required in connection with the Security Agreements.

**SECTION 5.** The City Council further authorizes the Authority to negotiate, from time to time, the Authority's entry into purchase contracts on behalf of the City for the purchase of energy and renewable energy, and related products, and for which contracts the City shall be solely responsible for payment of through the Security Agreements (each, an "Energy Contract"), which Energy Contract shall be substantially similar to the form to attached to the Services Agreement as Exhibit "F"; provided that the term of any such Energy Contract shall not exceed five (5) years. The Authority shall provide the proposed Energy Contract to the City Manager, or his/her authorized designee, who is hereby authorized and directed to review the proposed Energy Contract and, in the exercise of his/her reasonable discretion, provide the Authority with his/her written approval thereof. The Authority shall have, and the City Manager may not withhold, the authority to grant a seller under the Energy Contract a first priority security interest in the collateral (*i.e.* the lock box account) secured by the Security Agreements.

**SECTION 6.** Upon receipt of the written approval from the City Manager of an Energy Contract as set forth in Section 5 above, which may be provided via email correspondence, the City Council authorizes the Authority to enter into an Energy Contract on behalf of and for the sole benefit of the City. The City Council further authorizes the Authority to enter into any ancillary agreements required in connection with an Energy Contract, subject to receipt of written approval from the City Manager of any such ancillary agreements as set forth in Section 5 above.

**SECTION 7.** The City Council hereby authorizes the City to enter into, and the City Manager is authorized and directed to execute on the City's behalf, a Community Choice Aggregator Service Agreement, with Southern California Edison ("SCE"), attached herewith as Exhibit "H". This agreement identifies the general terms of a community choice aggregator and payment to SCE for the distribution of power.

**SECTION 8.** The City Council hereby authorizes the City to make payment to the California Public Utilities Commission in the amount of \$100,000 as a bond as is required pursuant to CCA approval.

**SECTION 9.** The City Clerk shall attest and certify to the passage and adoption of this Resolution and it should become effective immediately upon its approval.

**APPROVED AND ADOPTED THIS 1<sup>st</sup> DAY OF APRIL 2019**

**ATTEST:**

**CITY OF POMONA:**

\_\_\_\_\_  
Rosalia A. Butler, City Clerk

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Tim Sandoval, Mayor

**APPROVED AS TO FORM:**

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Christi Hogin, Interim City Attorney

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CITY OF POMONA

I, ROSALIA A. BUTLER, CITY CLERK of the City of Pomona do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Pomona held on the 1<sup>st</sup> day of April 2019 by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

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Rosalia A. Butler, City Clerk

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