

ORDINANCE NO. XXX

1
2 **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA**
3 **APPROVING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION**
4 **PROGRAM AND AUTHORIZING THE MARIN CLEAN ENERGY JOINT POWERS**
5 **AGREEMENT**

6 **WHEREAS**, the City of Calistoga has been actively investigating options to
7 provide electric services to constituents within its service area with the intent of
8 promoting use of renewable energy and reducing energy related greenhouse gas
9 emissions; and

10 **WHEREAS**, Assembly Bill 117 (Stat. 2002, ch. 838; see California Public Utilities
11 Code section 366.2; hereinafter referred to as the "Act") authorizes any California city
12 whose governing body so elects to combine the electricity load of its residents and
13 businesses in a community-wide electricity aggregation program known as Community
14 Choice Aggregation (CCA); and

15 **WHEREAS**, the Act expressly authorizes participation in a Community Choice
16 Aggregation (CCA) program through a joint powers agency, and on December 19,
17 2008, Marin Clean Energy (MCE) was established as a joint power authority pursuant to
18 a Joint Powers Agreement, as amended from time to time; and

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

22 **WHEREAS**, participating in MCE will give city customers the choice of having
23 50% to 100% of their electricity supplied from renewable sources—such as wind,
24 bioenergy, and hydroelectric—as compared to Calistoga's existing provider PG&E,
25 whose energy mix in 2013 was about 22% from renewable sources, at rates that are
26 competitive with PG&E.

27 **WHEREAS**, in order to become a member of MCE, the Act requires the City to
28 adopt an ordinance electing to implement a Community Choice Aggregation program
29 within its jurisdiction by and through its participation in MCE.

30 **NOW, THEREFORE, THE CALISTOGA CITY COUNCIL DOES HEREBY**
31 **ORDAIN AS FOLLOWS:**

32 **SECTION ONE**

33 Findings. The above recitals are incorporated herein as if set forth herein in full
34 and each is relied upon independently by the City Council for its adoption of this
35 ordinance.

36 **SECTION TWO**

37 Based upon all of the above, the City Council elects to implement a Community
38 Choice Aggregation program within the City of Calistoga's jurisdiction by and through
39 the City's participation in Marin Clean Energy.

40 **SECTION THREE**

41 The City Council hereby authorizes the Mayor to execute the MCE Joint Powers
42 Agreement attached hereto as Exhibit A.

43 **SECTION FOUR**

44 Severability. If any section, subsection, subdivision, paragraph, sentence,
45 clause, or phrase in this ordinance or any part thereof is for any reason held to be
46 unconstitutional or invalid or ineffective by any court of competent jurisdiction, such
47 decision shall not affect the validity or effectiveness of the remaining portions of this
48 ordinance or any part thereof. The City Council hereby declares that it would have
49 passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase
50 thereof irrespective of the fact that any one or more subsections, subdivisions,
51 paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or
52 ineffective.

53 **SECTION FIVE**

54 Effective Date. This ordinance shall take effect on the later of (a) the date the
55 MCE Board of Directors adopts a resolution adding the City of Calistoga as a member
56 of MCE, or (b) 30 days after its passage. Before the expiration of fifteen (15) days after
57 its passage, the ordinance shall be published in accordance with law in a newspaper of
58 general circulation published and circulated in the city of Calistoga.

59 THIS ORDINANCE was introduced with the first reading waived at the City of
60 Calistoga City Council meeting of the **20th day of October, 2015**, and was passed and
61 adopted at a regular meeting of the Calistoga City Council on _____, **2015**, by
62 the following vote:

63 **AYES:**
64 **NOES:**
65 **ABSENT:**
66 **ABSTAIN:**

67 _____
68 **Chris Canning, Mayor**

69 **ATTEST:**

70
71 _____
72 **Kathy Flamson, City Clerk**



**DECLARATION BY CITY MANAGER REGARDING INVESTIGATION,
PURSUIT OR IMPLEMENTATION OF COMMUNITY CHOICE AGGREGATION**

I, Richard Spitler, state as follows:

1. I am the City Manager of the City of Calistoga.
2. I am authorized to make this declaration on behalf of a city which is investigating, pursuing or implementing community choice aggregation as a community choice aggregator as defined by Section 331.1 of the California Public Utilities Code ("CCA" or "Potential CCA").
3. I understand that all of the confidential information provided by PG&E to the city indicated above is subject to the terms and conditions of the Nondisclosure Agreement between these two entities and is provided for the sole purpose of enabling the city to investigate, pursue or implement community choice aggregation.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this ___ day of _____, 201_, at Calistoga, CA.

[Signature]