

ORDINANCE NO. 2006-09

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEMOORE APPROVING THE
SAN JOAQUIN VALLEY POWER AUTHORITY JOINT POWERS AGREEMENT AND
AUTHORIZING THE SUBMITTAL OF AN IMPLEMENTATION PLAN FOR
A COMMUNITY CHOICE AGGREGATION PROGRAM BY THE SAN JOAQUIN VALLEY
POWER AUTHORITY

WHEREAS, the Kings River Conservation District (“KRCD”) has been actively investigating options to provide electric services to constituents within its service area in Fresno, Kings, and Tulare counties with the intent of achieving greater local involvement over the provision of electric services, promoting competitive and stable electric rates, and increasing electric reliability for the region; and

WHEREAS, on September 24, 2002, the Governor signed into law Assembly Bill 117 (Stat. 2002, ch. 838), 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; and

WHEREAS, Assembly Bill 117 expressly authorizes participation in a Community Choice Aggregation program through a joint powers agency, and to this end the City has been participating since April 2004 with KRCD in the evaluation of a Community Choice Aggregation program for cities and counties in KRCD’s service area; and

WHEREAS, at the March 1, 2005 City Council meeting, the City Council (a) approved the City’s execution of a Memorandum of Understanding (“MOU”) with KRCD, Kings County and twelve cities (“MOU Parties”) to formally evaluate the feasibility of implementing a Community Choice Aggregation program among participating cities and counties within KRCD’s service area, and (b) authorized the expenditure of funding consisting of the City’s financial contribution to tasks identified in the MOU; and

WHEREAS, through Docket No. R.03-10-003 the California Public Utilities Commission has issued various decisions and rulings addressing the implementation of Community Choice Aggregation programs, including the recent issuance of a procedure by which the California Public Utilities Commission will review so-called “Implementation Plans,” which are required for submittal under Assembly Bill 117 as the means of describing the Community Choice Aggregation program and assuring compliance with various elements contained in Assembly Bill 117; and

WHEREAS, KRCD and the other MOU Parties have developed the San Joaquin Valley Power Authority Joint Powers Agreement (“Joint Powers Agreement”) (attached hereto as Exhibit A) in order (a) to form a joint powers agency known as the “San Joaquin Valley Power Authority” and (b) to specify the terms and conditions by which participants may participate as a

group in electricity-related programs, including specifically the preliminary implementation of a Community Choice Aggregation program; and

WHEREAS, pursuant to the MOU, KRCD and the MOU Parties have developed an Implementation Plan (attached hereto as Exhibit B) that describes the formation of the San Joaquin Valley Power Authority and the Community Choice Aggregation program to be implemented by and through the San Joaquin Valley Power Authority, with underlying support from KRCD; and

WHEREAS, a final Implementation Plan will be submitted for review and adoption by the Board of Directors of the San Joaquin Valley Power Authority as soon after the formation of the San Joaquin Valley Power Authority as reasonably practicable; and

WHEREAS, KRCD and the MOU Parties are developing additional agreements for the initiation of Community Choice Aggregation, including Program Agreement 1 among the San Joaquin Valley Power Authority and cities and counties participating in the Community Choice Aggregation program; and

WHEREAS, as described in the Implementation Plan, Community Choice Aggregation by and through the San Joaquin Valley Power Authority appears to provide a reasonable opportunity (1) to provide greater levels of local involvement in and collaboration on energy decisions, (2) to achieve electricity price stability and transparency, (3) to promote greater levels of electric system reliability through the development of local electric generating resources, and (4) to provide electricity cost savings and other benefits for the community; and

WHEREAS, Assembly Bill 117 requires cities and/or counties participating as a group in a Community Choice Aggregation program to individually adopt an ordinance (“CCA Ordinance”) electing to implement a Community Choice Aggregation program within its jurisdiction by and through its participation in a joint powers agency; and

WHEREAS, the Joint Powers Agreement expressly allows the City to withdraw its membership in the San Joaquin Valley Power Authority (and its participation in the Community Choice Aggregation program) prior to the actual implementation of a Community Choice Aggregation program through Program Agreement 1.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemoore ordains as follows:

1. The City Council approves the Joint Powers Agreement in substantially the form attached hereto as Exhibit A, authorizes the Mayor or [his/her] designee to execute the Joint Powers Agreement on behalf of the City, and appoints the [City Manager] or [his/her] designee as a Director on the San Joaquin Valley Power Authority Board of Directors;
2. The City Council elects to implement a Community Choice Aggregation program within the City’s jurisdiction by and through the City’s participation in the San

Joaquin Valley Power Authority, as described in the Implementation Plan in substantially the form attached hereto as Exhibit B, and subject to the City's right to forego the actual implementation of a Community Choice Aggregation program pursuant to specified withdrawal rights described in the Joint Powers Agreement.

3. The City Council directs the City's staff to finalize negotiation of Program Agreement 1 as soon as reasonably practicable, and to submit the finalized form of Program Agreement 1 to the City Council for review and consideration for approval.
4. This CCA Ordinance shall take effect and be in full force on the thirtieth day from and after its second reading and adoption.

Exhibit A: Form of Joint Powers Agreement for the San Joaquin Valley Power Authority

Exhibit B: Form of the Implementation Plan

The foregoing ordinance was introduced at a Regular Meeting of the City Council of the City of Lemoore held on the 17th day of October, 2006 and was passed and adopted at a Regular Meeting of the City Council held on the 7th day of November, 2006, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

APPROVED:

Thomas E. Buford, Mayor

ATTEST:

Nanci C.O. Lima, City Clerk

CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF KINGS) ss.
CITY OF LEMOORE)

I, Nanci C.O. Lima, City Clerk of the City of Lemoore, do hereby certify that the foregoing ordinance was duly introduced at a Regular Meeting of the City Council of the City of Lemoore held on the 17th day of October, 2006 and was passed and adopted at a Regular Meeting of the City Council held on the 7th day of November, 2006.

Nanci C. O. Lima, City Clerk