

CHIEF EXECUTIVE OFFICER EMPLOYMENT AGREEMENT

This CHIEF EXECUTIVE OFFICER EMPLOYMENT AGREEMENT ("**Agreement**") is made by and between SAN DIEGO COMMUNITY POWER, a California joint powers authority ("**SDCP**"), and KARIN BURNS, an individual ("**Executive**") as of April 18, 2022 ("**Effective Date**").

RECITALS

A. Whereas, Section 5.5 of the *San Diego Community Power Joint Powers Agreement*, amended and restated on December 16, 2021 ("**JPA**"), requires the SDCP Board of Directors ("**Board**") to appoint a Chief Executive Officer ("**CEO**"), who shall be responsible for the day-to-day operation and management of SDCP and the Community Choice Aggregation Program;

B. Whereas, the Board desires to retain Executive as CEO to perform those duties and functions as may be specified by the JPA and to perform such other legally permissible and proper duties and functions as SDCP may from time-to-time assign; and

C. Whereas, Executive desires to accept employment by SDCP as its CEO.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties agree as follows:

AGREEMENT

SECTION 1. DUTIES OF EXECUTIVE. Executive shall assume the powers of the CEO position and perform the functions and duties specified by SDCP's Board and as provided by any such other resolutions of the Board, applicable laws, rules, regulations, orders, directives, policies, or procedures now in effect or hereafter adopted by SDCP.

- a. Full Energy and Skill. Executive shall faithfully, diligently, and to the best of Executive's abilities, perform all duties that may be required under this Agreement. Executive agrees that Executive has a duty of loyalty and a general fiduciary duty to SDCP. Executive shall devote the whole of Executive's working time, skill, experience, knowledge, ability, labor, energy, attention, and best effort exclusively to SDCP's business and affairs.
- b. No Conflict. Executive shall not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, which is actually or potentially in conflict with, inimical to, or which interferes with the performance of Executive's duties. Nothing herein shall prevent Executive from participating in charitable, civic, educational, professional, or community affairs or from serving on the board of directors or advisory boards of private companies, subject to SDCP's Board approval and provided such activities do not materially interfere with the performance of her duties hereunder or create a potential conflict with SDCP or the appearance thereof. If at any time service on any board of directors or advisory board would, in the good faith judgment of the Board, conflict with the Executive's fiduciary duty to SDCP or create any appearance thereof, then Executive shall as soon as

reasonably practicable considering any fiduciary duty to the other entity, resign from such other board of directors or advisory board after written notice of the conflict is received from the Board.

- c. Hours of Work. Executive is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the CEO position. Executive does not have set hours of work as Executive is expected to be available at all times. It is recognized that Executive must devote a great deal of time to the business of SDCP outside of SDCP's customary office hours, and to that end Executive's schedule of work each day and week may vary in accordance with the work required to be performed and in accordance with any specific direction provided by the Board.

SECTION 2. EFFECTIVE PERIOD. Executive is appointed as CEO beginning on the Effective Date through April 17, 2025, (the “**Effective Period**”) unless terminated earlier in accordance with Section 3, below.

- a. At Will Employment. Executive understands and agrees that employment under this Agreement is “at-will” meaning that either Executive or the Board may terminate Executive’s employment at any time, with or without cause, subject only to the provision set forth below in Section 3.
- b. No Property Interest. Executive understands and agrees that Executive has no constitutionally-protected property or other interest in Executive's employment as CEO. Executive understands and agrees that Executive works at the will and pleasure of SDCP’s Board, and that Executive may be terminated, or asked to resign, at any time, with or without cause, by a majority vote of its members.

SECTION 3. TERMINATION.

- a. By SDCP—Not “For Cause”.

At any time, SDCP may terminate Executive’s employment without Cause (as defined in Section 3(b) below) by providing Executive written notice of termination. In the event Executive is terminated without Cause, Executive shall be entitled to an amount equal to Executive’s base salary for six (6) months conditioned upon Executive execution of a settlement agreement (i) waiving any and all claims Executive may have against SDCP and/or its officers or directors; (ii) including a release of all known or unknown claims related to or arising out of Executive’s employment with SDCP, including the termination of said employment; (iii) a Civil Code section 1542 waiver; and (iv) any other provisions, clauses, terms and/or conditions, deemed appropriate by the Board at the time of the termination of Executive’s employment, under the facts and circumstances of such termination. In order for Executive to be eligible for the severance payment, the release agreement must be finalized no later than twenty-one (21) days after the effective date of Executive’s termination or the date upon which the release agreement is presented to Executive, whichever is later. Thereafter, all of SDCP’s obligations under this

Agreement shall cease. SDCP may dismiss Executive as provided in this Section 3 notwithstanding anything to the contrary contained in or arising from any statements, policies, or practices of SDCP relating to the employment, discipline, or termination of its employees.

Notwithstanding any other provision herein, in accordance with Government Code section 53260, the cash payment that Executive may receive in the event of the termination of this Agreement, as set forth in this Section, shall not exceed an amount equal to the monthly base salary of Executive multiplied by the number of months left on the unexpired term of this Agreement.

b. By SDCP—“For Cause”.

At any time, and without prior notice, SDCP may terminate Executive for Cause. SDCP shall pay Executive all compensation then due and owing; thereafter, all of SDCP’s obligations under this Agreement shall cease. Termination shall be "For Cause" if Executive: (i) acts in bad faith and to the detriment of SDCP; (ii) willfully and unequivocally refuses or fails to act in accordance with any specific direction or order of SDCP’s Board; (iii) exhibits in regard to his or her employment gross unfitness or chronic unavailability for service, unsatisfactory performance, misconduct, dishonesty, habitual neglect, or incompetence; (iv) is convicted of a crime involving dishonesty, breach of trust, or physical or emotional harm to any person resulting in incarceration; (v) commits or is accused of committing an act involving moral turpitude under federal, state, or local law (regardless of whether or not such act involving moral turpitude is a misdemeanor or felony); and/or (vi) breaches any material term of this Agreement.

c. Statutory Requirements.

In compliance with Government Code section 53243, to the extent SDCP provides: (i) paid leave to Executive pending an investigation; (ii) funds for the legal criminal defense of the Executive; and/or (iii) a cash settlement to Executive related to the termination of Executive pursuant to Section 3(b) of this Agreement, Executive shall fully reimburse SDCP for any and all amounts paid by SDCP which fall within any such categories in the event that Executive is convicted of a crime involving the abuse of their office or position.

d. By Executive.

In the event that Executive desires to terminate this Agreement during such time as SDCP desires for Executive to continue in the capacity of CEO, then Executive agrees to provide SDCP with at least forty-five (45) days’ written notice of said termination.

SECTION 4. COMPENSATION AND PERFORMANCE REVIEWS.

a. Executive shall receive the base annual salary of Three Hundred Seventy-Five Thousand Dollars and No Cents (\$375,000.00), payable on a pro-rata basis in accordance with SDCP’s payroll practices and less all applicable payroll taxes and

withholdings. Executive may be eligible for an increase in salary on the anniversary of this Agreement, subject to approval by a majority of the members of the Board.

- b. SDCP shall perform a performance review of Executive at least annually. The Board or a committee of the Board of Directors shall additionally review the base compensation, bonuses, and benefits provided to Executive under this Agreement and may, in their sole discretion, adjust the same.

SECTION 5. OTHER BENEFITS. Executive shall be entitled to participate in SDCP's benefits adopted by SDCP on the same basis as other executives of SDCP.

- a. Automobile. Executive shall receive a gross monthly vehicle allowance of Five Hundred Dollars and No Cents (\$500.00) per month. The Parties intend for this taxable allowance to be in lieu of reimbursement on an itemized basis for mileage, gas, maintenance of a vehicle, etc. Executive shall not be separately reimbursed for mileage incurred in connection with the execution of her duties.
- b. Technology Allowance. Executive shall receive either an SDCP-owned cell phone and (accompanying SDCP-paid plan) or a \$100 monthly taxable technology allowance to use towards his or her personal discretionary technological purchases and expenses in furtherance of employment (*e.g.*, cellular phone, tablet, data plan, laptop computer). The Parties intend this allowance to cover all technology-related costs that Executive incurs in the course and scope of his or her employment with SDCP.
- c. Relocation Expense Reimbursement. Executive shall be entitled to reimbursement of reasonable relocation expenses with receipts, up to a gross amount of Fifty Thousand Dollars and No Cents (\$50,000.00) for the purpose of, among other things, travel, including lodging, airfare, car rentals, and meals to and from San Diego in connection with house hunting and relocation and moving expenses and rental reimbursement, not to exceed eight (8) months ("Relocation Assistance"). In the event Executive's employment is terminated prior to the end of the Effective Period set forth, *supra*, then Executive shall be required to reimburse a pro rata portion of the Relocation Assistance, which repayment may be waived by a vote of the majority of the Board, in its sole discretion.
- d. Other Benefits. Executive shall be entitled to participate in benefits, including health care coverage and premium payments, retirement plans and/or 401(k) plans, and to receive sick leave, vacation accrual, and any and all other benefits to the same extent and as other executives of SDCP.

SECTION 6. INDEMNIFICATION. SDCP shall indemnify and defend Executive in accordance with the California Government Claims Act. Unless otherwise specifically required by law, SDCP's Board shall determine, in its sole discretion, whether to file an appeal if a final judgment is adverse to Executive or whether to compromise and settle any such claim or suit against Executive, as well as the amount of any settlement or judgment rendered thereon. SDCP shall also pay for the cost of any fidelity or other bonds required by law for the position of CEO.

SECTION 7. OTHER TERMS AND CONDITIONS OF EMPLOYMENT. SDCP shall make any other terms and conditions of employment related to the performance of Executive, provided such terms and conditions are not inconsistent with the provisions of this Agreement or by law.

SECTION 8. NOTICES. Notices given under this Agreement shall be in writing and shall be served personally or sent by Federal Express or some equivalent private overnight delivery service. Notices shall be deemed received at the earlier of actual receipt or two (2) days following transmission to an overnight carrier.

To SDCP: Attn: Chair of the Board of Directors
San Diego Community Power
655 W. Broadway, Suite 1500
San Diego, CA 92101

With a copy to:

Ryan M. F. Baron
SDCP General Counsel
c/o Best, Best & Krieger LLP
655 W. Broadway, 15th Floor
San Diego, CA 92101

To Executive: Karin Burns
At the address on file with SDCP's
Human Resources Department

SECTION 9. INTEGRATION. This Agreement is intended to be the final, complete, and exclusive statement of the terms of Executive's employment by SDCP. This Agreement supersedes all other prior and contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the employment of Executive, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements. To the extent that the practices, policies, or procedures of SDCP, now or in the future, apply to Executive and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control.

SECTION 10. AMENDMENTS; WAIVERS. This Agreement may not be amended except by an instrument in writing, signed by each of the Parties. No failure to exercise and no delay in exercising any right, remedy, or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power under this Agreement preclude any other or further exercise thereof, or the exercise of any other right, remedy, or power provided herein or by law or in equity.

SECTION 11. ASSIGNMENT; SUCCESSORS AND ASSIGNS. Executive agrees that he or she will not assign, sell, transfer, delegate, or otherwise dispose of, whether voluntarily or involuntarily, or by operation of law, any rights or obligations under this Agreement. Any such

purported assignment, transfer, or delegation shall be null and void. Nothing in this Agreement shall prevent the consolidation of SDCP with, or its merger into, any other entity, or the sale by SDCP of all or substantially all of its assets, or the otherwise lawful assignment by SDCP of any rights or obligations under this Agreement. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, legal representatives, successors, and permitted assigns, and shall not benefit any person or entity other than those specifically enumerated in this Agreement.

SECTION 12. SEVERABILITY. If any provision of this Agreement, or its application to any person, place, or circumstance, is held by an arbitrator or a court of competent jurisdiction to be invalid, unenforceable, or void, such provision shall be enforced to the greatest extent permitted by law, and the remainder of this Agreement and such provision as applied to other persons, places, and circumstances shall remain in full force and effect.

SECTION 13. ATTORNEY'S FEES. In any legal action, arbitration, or other proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

SECTION 14. GOVERNING LAW AND VENUE. This Agreement shall be governed by and construed in accordance with the laws of the State of California. The Parties agree that venue for any dispute shall be in San Diego County Superior Court.

SECTION 15. INTERPRETATION. This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit nor against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement.

SECTION 16. REPRESENTATION BY COUNSEL. The Parties acknowledge and agree that they were, or had the opportunity to be, represented individually by legal counsel with respect to the matters that are the subject of this Agreement and that they are fully advised with respect to their respective rights and obligations resulting from signing this Agreement.

SECTION 17. COUNTERPARTS AND ELECTRONIC SIGNATURES. This Agreement may be executed in triplicate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree that this Agreement may be executed and delivered by electronic signatures and that the signatures appearing on this Agreement are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, SDCP and Executive have executed this Agreement on the date written below:

SAN DIEGO COMMUNITY POWER

EXECUTIVE

By: _____
Joe Mosca
Chair, SDCP Board of Directors

By: _____
Karin L. Burns

APPROVED AS TO FORM:

By: _____
SDCP General Counsel